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PART II—Section 2

Bills and Reports of Select Committees on Bills.

PARLIAMENT OF INDIA

The following Bills were introduced in Parliament on the 13th February, 1952:—

BILL No. 10 OF 1952

A Bill further to amend the Indian Boilers Act, 1923.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Indian Boilers (Amendment) Act, 1952.

2. Amendment of section 2B, Act V of 1923.—In section 2B of the Indian Boilers Act, 1923, the words, brackets, letters and figures “clause (e) of section 6, clauses (c) and (d) of section 11, clause (d) of section 29” shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Economisers do not form an integral part of boilers and hence the provisions of the Indian Boilers Act, 1923, as originally enacted, relating to registration and inspection of boilers, did not apply to economisers. A serious explosion to an economiser which occurred in Bombay demonstrated the necessity of providing for the inspection, etc., of economisers and accordingly in 1947 a new section 2B was inserted in the Indian Boilers Act which enabled the Central Boilers Board to make regulations for regulating the registration and inspection of economisers. The amendment, however, did not make it possible for rules to be framed so that the economisers could be placed in charge of persons holding a certificate of competency. Thus under the existing provisions of the Act a boiler attendant must be the holder of a certificate of competency, but no such certificate of competency can be prescribed for handling economisers.

It is proposed to provide that economisers also should be in charge of persons holding certificate of competency. The Bill seeks to give effect to the above proposal.

N. V. GADGIL.

NEW DELHI;
The 8th February, 1952.

BILL No. 11 OF 1952

A Bill further to amend the Bombay Port Trust Act, 1879.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Bombay Port Trust (Amendment) Act, 1952.

2. Amendment of section 5, Bombay Act VI of 1879.—(1) For clauses (e) and (f) of sub-section (2) of section 5 of the Bombay Port Trust Act, 1879, the following clauses shall be substituted, namely:—

“(e) the General Manager, Central Railway, *ex officio*;

(f) the General Manager, Western Railway, *ex officio*;”.

STATEMENT OF OBJECTS AND REASONS

Under sub-section (2) of section 5(b) of the Bombay Port Trust Act, 1879, the General Manager, G. I. P. Railway and the General Manager, B. B. and C. I. Railway, are *ex officio* members of the Board of Trustees of the Port of Bombay. With effect from 5th November, 1951, these two Railways have been regrouped under the new names of the Central Railway and the Western Railway respectively. In order to enable the General Managers of the Central Railway and the Western Railway to function as Trustees of the Bombay Port Trust Board, it is necessary to amend section 5 of the Bombay Port Trust Act as proposed in the Bill.

NEW DELHI;

The 5th February, 1952.

K. SANTHANAM.

BILL No. 12 OF 1952.

A Bill to amend the Abducted Persons (Recovery and Restoration) Act, 1949.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Abducted Persons (Recovery and Restoration) Amendment Act, 1952.

2. Amendment of section 1, Act LXV of 1949.—In section 1 of the Abducted Persons (Recovery and Restoration) Act, 1949, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) It extends to the States of Punjab, Uttar Pradesh, Patiala and East Punjab States Union, Rajasthan and Delhi, and shall remain in force up to the 31st day of October, 1952.”

3. Repeal of Ordinance VII of 1951.—The Abducted Persons (Recovery and Restoration) Amendment Ordinance, 1951 (VII of 1951) is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Abducted Persons (Recovery and Restoration) Act, 1949 (LXV of 1949) under the provisions of which the recovery of persons abducted during the disturbances of 1947 are being carried on, was due to expire on the 31st October, 1951. As there were still such persons to be recovered, it was considered necessary to continue the efforts for at least a year

more. The duration of the Act was, accordingly, extended by the Abducted Persons (Recovery and Restoration) Amendment Ordinance of 1951 and the present Bill seeks to convert the provisions of this Ordinance into a Bill.

N. GOPALASWAMI.

NEW DELHI;

The 8th February, 1952.

The following Bills were introduced in Parliament on the 14th February, 1952:—

BILL No. 13 OF 1952.

A Bill to declare certain substances to be dangerously inflammable and to provide for the regulation of their import, transport, storage and production by applying thereto the Petroleum Act, 1934, and the rules thereunder, and for certain matters connected with such regulation.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Inflammable Substances Act, 1952.

2. Definitions.—In this Act,—

(a) “dangerously inflammable substance” means any liquid or other substance declared to be dangerously inflammable by this Act;

(b) “Petroleum Act” means the Petroleum Act, 1934 (XXX of 1934).

3. Declaration of certain substances to be dangerously inflammable.—The liquids and other substances hereinafter mentioned, namely:—

- (1) acetone,
- (2) calcium phosphide,
- (3) carbide of calcium,
- (4) cinematograph films having a nitro-cellulose base,
- (5) ethyl alcohol,
- (6) methyl alcohol,
- (7) wood naphtha,

are hereby declared to be dangerously inflammable.

4. Power to apply Petroleum Act to dangerously inflammable substances.—(1) The Central Government may, by notification in the Official Gazette, apply any or all of the provisions of the Petroleum Act and of the rules made thereunder, with such modifications as it may specify, to any dangerously inflammable substance, and thereupon the provisions so applied shall have effect as if such substance had been included in the definition of “petroleum” under that Act.

(2) The Central Government may make rules providing specially for the testing of any dangerously inflammable substance to which any of the provisions of the Petroleum Act have been applied by notification under sub-section (1), and such rules may supplement any of the provisions of Chapter II of that Act in order to adapt them to the special needs of such tests.

5. Operation of certain notifications and rules.—Notifications or rules issued or purporting to have been issued under section 90 of the Petroleum Act between the 1st day of April, 1937, and the date of commencement of

this Act shall be deemed to have been issued or made under this Act, and continue in force accordingly.

6. Validation of certain acts and indemnity in respect thereof.—All acts of executive authority, proceedings and sentences which have been done, taken or passed with respect to, or on account of, any inflammable substance since the 1st day of April, 1937, and before the commencement of this Act by any officer of Government or by any person acting under his authority or otherwise in pursuance of an order of the Government in the belief or purported belief that the acts, proceedings or sentences were being done, taken or passed under the Petroleum Act shall be as valid and operative as if they had been done, taken or passed in accordance with law; and no suit or other legal proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings or sentences were not done, taken or passed in accordance with law.

7. Repeal of section 30, Act XXX of 1934.—Section 30 of the Petroleum Act is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

By virtue of sub-section (1) of section 30 of the Petroleum Act, 1934, the Central Government may apply, by notification, any or all of the provisions of that Act, to any dangerously inflammable substance other than an explosive and thus regulate the transport, storage, production, etc., of that substance. All the provisions of the Petroleum Act have been made applicable in this manner to acetone, wood naphtha, ethyl alcohol and methyl alcohol and certain provisions to carbide of calcium, calcium phosphide and cinematograph films having a nitro-cellulose base.

It would however appear that, after the coming into force of the Government of India Act, 1935, on the 1st April, 1937, sub-section (1) of section 30 of the Petroleum Act could not be regarded as a valid provision. Unless a substance was expressly declared by "Federal law", i.e., an Act of the Indian Legislature, to be dangerously inflammable with reference to Entry 92 of the Federal Legislative List, the legislative and executive power in regard to the possession, storage and transport of that substance remained by virtue of Entry 29 of the Provincial Legislative List with the Provinces, and the Centre could not exercise control over these matters simply by the issue of a notification under a pre-existing law. The position remains the same under the new Constitution, the corresponding entries being Entry 53 of the Union List and Entry 27 of the State List.

The present Bill, therefore, seeks to introduce legislation referable to Entry 53 of the Union List, declaring certain liquids and substances as dangerously inflammable and empowering the Central Government to apply thereto all or any of the provisions of the Petroleum Act, 1934. The declaration will in the first instance be confined to the liquids and substances mentioned in paragraph 1 above, in respect of which notifications have already been issued under sub-section (1) of section 30 of the Petroleum Act. Provision is also being made in the Bill for the continuance in force of notifications and rules purporting to have been issued under section 30 of the Petroleum Act and for indemnifying all officers in respect of action taken under such notifications or rules. Section 30 of the Petroleum Act, 1934, is also to be repealed by this Bill.

N. V. GADGIL.

NEW DELHI:

The 2nd February, 1952.

BILL* NO. 15 OF 1952.

A Bill to provide for the institution of provident funds for employees in factories and other establishments.

BE it enacted by Parliament as follows:—

1. Short title, extent and application.—(1) This Act may be called the Employees' Provident Funds Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) Subject to the provisions contained in section 16, it applies in the first instance to all factories engaged in any industry specified in Schedule I in which fifty or more persons are employed, but the Central Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to all factories employing such number of persons less than fifty as may be specified in the notification and engaged in any such industry.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means—

(i) in relation to a factory engaged in a controlled industry or in an industry connected with a mine or an oilfield, the Central Government, and

(ii) in relation to any other factory, the State Government;

(b) "basic wages" means all remuneration which is earned by an employee while on duty or on leave with wages in accordance with the terms of the contract of employment and which is paid or payable in cash to him, but does not include—

(i) the cash value of any food concession;

(ii) any dearness allowance (that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living), house rent allowance, overtime allowance, bonus, commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment;

(iii) any presents made by the employer;

(c) "contribution" means a contribution payable in respect of a member under a Scheme;

(d) "controlled industry" means any industry the control of which by the Union has been declared by a Central Act to be expedient in the public interest;

(e) "employer" in relation to a factory means the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (LXIII of 1948), the person so named;

* The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended to Parliament the consideration of the Bill.

(f) "employee" means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of a factory, and who gets his wages directly or indirectly from the employer, and includes any person employed by or through a contractor in or in connection with the work of the factory;

(g) "factory" means any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on, whether with the aid of power or without the aid of power;

(h) "Fund" means the provident fund established under a Scheme;

(i) "industry" means any industry specified in Schedule I, and includes any other industry added to the Schedule by notification under section 4;

(j) "member" means a member of the Fund;

(k) "occupier of a factory" means the person who has ultimate control over the affairs of the factory, and, where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;

(l) "Scheme" means a Scheme framed under this Act.

3. Power to apply Act to establishment which has a common provident fund with a factory.—Where immediately before this Act becomes applicable to a factory there is in existence a provident fund which is common to the employees employed in a factory to which this Act applies and employees in any other establishment, the Central Government may, by notification in the Official Gazette, direct that the provisions of this Act shall also apply to that establishment, and thereupon the establishment shall be deemed to be a factory for all the purposes of this Act.

4. Power to add to Schedule I.—The Central Government may, by notification in the Official Gazette, add to Schedule I any other industry in respect of the employees whereof it is of opinion that a provident fund scheme should be framed under this Act, and thereupon the industry so added shall be deemed to be an industry specified in Schedule I for the purposes of this Act.

5. Employees' Provident Fund Schemes.—The Central Government may, by notification in the Official Gazette, frame a Scheme to be called the Employees' Provident Fund Scheme for the establishment of provident funds under this Act for employees or for any class of employees and specify the factories or class of factories to which the said Scheme shall apply.

6. Contributions and matters which may be provided for in Schemes.—
(1) The contribution which shall be paid by the employer to the Fund shall be six and a quarter per cent. of the basic wages and the dearness allowance for the time being payable to each of the employees, and the employee's contribution shall be equal to the contribution payable by the employer in respect of him and may, if any employee so desires and if the Scheme makes provision therefor, be an amount not exceeding eight and one-third per cent. of his basic wages and dearness allowance:

Provided that where the amount of any contribution payable under this Act involves a fraction of a rupee, the Scheme may provide for the rounding off of such fraction to the nearest rupee, half of a rupee or quarter of a rupee.

Explanation.—For the purposes of this sub-section, dearness allowance shall be deemed to include also the cash value of any food concession allowed to the employee.

(2) Subject to the provisions contained in sub-section (1), any Scheme may provide for all or any of the matters specified in Schedule II.

7. Modification of Scheme.—The Central Government may, by notification in the Official Gazette, add to, amend or vary any Scheme framed under this Act.

8. Mode of recovery of moneys due from employers.—Any amount due from an employer in respect of any contribution payable under this Act or towards the cost of administering the Fund payable by him under any Scheme may, if it is in arrear, be recovered by the appropriate Government in the same manner as an arrear of land revenue.

9. Fund to be recognised under Act XI of 1922.—For the purposes of the Indian Income-tax Act, 1922 (XI of 1922), the Fund shall be deemed to be a recognised provident fund within the meaning of Chapter IXA of that Act.

10. Protection against attachment.—(1) The amount standing to the credit of any member in the Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member, and neither the official assignee appointed under the Presidency-towns Insolvency Act, 1909 (III of 1909), nor any receiver appointed under the Provincial Insolvency Act, 1920 (V of 1920), shall be entitled to, or have any claim on, any such amount.

(2) Any amount standing to the credit of any member in the Fund at the time of his death and payable to his nominee under the Scheme shall, subject to any deduction authorised by the said Scheme, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or incurred by the nominee before the death of the member.

11. Priority of payment of contributions over other debts.—The amount due in respect of any contribution under this Act or under any Scheme and any charges incurred in respect of the administration of the Fund under any Scheme shall, where the liability therefor has accrued before the person liable is adjudicated insolvent, or, in the case of a company ordered to be wound up, before the date of such order, be deemed to be included among the debts which under section 49 of the Presidency-towns Insolvency Act, 1909 (III of 1909) or under section 61 of the Provincial Insolvency Act, 1920 (V of 1920) or under section 230 of the Indian Companies Act, 1913 (VII of 1913) are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the company being wound up, as the case may be.

12. Employer not to reduce wages.—No employer shall, by reason only of his liability for any contribution payable under this Act, reduce, whether directly or indirectly, the wages of any employee, or, except as provided by any Scheme, discontinue or reduce any benefit (similar to any benefit conferred by this Act or by any Scheme) to which the employee is entitled under the terms of his employment.

13. Inspectors.—(1) The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act or of any Scheme, and may define their jurisdiction.

(2) Any Inspector appointed under sub-section (1) may, for the purpose of inquiring into the correctness of any information furnished in connection with this Act or with any Scheme or for the purpose of ascertaining whether any of the provisions of this Act or of any Scheme have been complied with—

(a) require an employer to furnish such information as he may consider necessary in relation to the Scheme,

(b) at any reasonable time enter any factory or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of wages in the factory;

(c) examine, with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the factory or any premises connected therewith or whom the Inspector has reasonable cause to believe to be or to have been, an employee in the factory;

(d) make copies of, or take extracts from, any book, register or other documents maintained in relation to the factory;

(e) exercise such other powers as the Scheme may provide.

(3) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

14. Penalties.—(1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act or under any Scheme or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) A Scheme framed under this Act may provide that any person who contravenes, or makes default in complying with, any of the provisions thereof shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(3) No court shall take cognizance of any offence punishable under this Act or under any Scheme except on a report in writing of the facts constituting such offence made with the previous sanction of such authority as may be specified in this behalf by the Central Government, by an Inspector appointed under section 13.

15. Special provisions relating to existing provident funds.—(1) Every employee who is a subscriber to any provident fund established by the employer and in existence on the 15th day of November, 1951, shall, pending the framing of a Scheme in respect of the factory in which he is employed, continue to be entitled to the benefits accruing to him under the provident fund, and the provident fund shall continue to be maintained in the same manner and subject to the same conditions as it would have been if this Act had not been passed.

(2) On the framing of any such Scheme as is referred to in sub-section (1), the accumulations standing to the credit of the employees in the provident fund shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any deed or other instrument

establishing the provident fund but subject to the provisions, if any, contained in the Scheme, be transferred to the Fund established under the Scheme, and shall be credited to the accounts of the employees entitled thereto in the Fund.

16. Act not to apply to factories belonging to Government or local authority and also to infant factories.—This Act shall not apply to—

(a) any factory belonging to the Government or a local authority, and

(b) any other factory, established whether before or after the commencement of this Act, unless three years have elapsed from its establishment.

17. Power to exempt.—The appropriate Government may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt from the operation of this Act, or of any scheme—

(a) any factory to which this Act applies if the rules of its provident fund with respect to contributions are in conformity with, or are more favourable to the employees therein than, those specified in this Act, and, if, in the opinion of the appropriate Government, the employees are otherwise in enjoyment of provident fund benefits generally which are on the whole not less favourable to the employees than the benefits provided under this Act or under any scheme in relation to employees in any factory of a similar character;

Explanation.—The following conditions shall be deemed to be always included in the conditions which may be specified in a notification under clause (a), namely:—

(i) the amount of accumulations in the provident fund shall be invested in such manner as the Central Government may direct;

(ii) the amount of accumulations to the credit of an employee in the provident fund shall, where he leaves his employment and obtains re-employment in another factory to which this Act applies within such time as may be specified in this behalf by the Central Government, be transferred to the credit of his account in the Fund established under the Scheme applicable to the factory;

(b) any class of persons employed in any factory, if the Central Government is of opinion that such class of persons is entitled to old age pension benefits which are on the whole not less favourable to such persons than the benefits provided under this Act or under any Scheme in relation to persons employed in any factory of a similar character:

Provided that no notification under clause (b) shall be issued unless the Central Government is satisfied that the majority of persons so employed desire to continue to be entitled to such old age pension benefits.

18. Protection for acts done in good faith.—No suit or other legal proceeding shall lie against an Inspector or any other person in respect of anything which is in good faith done or intended to be done under this Act or under any Scheme.

19. Delegation of powers to the State Government.—The Central Government may, by notification in the Official Gazette, direct that any power, authority or jurisdiction exercisable by it under or in relation to any such provisions of this Act or of any Scheme as may be specified in the notification shall, subject to such conditions and restrictions as may be so specified, be exercisable also by any State Government.

20. Repeal of Ordinance VIII of 1951.—(1) The Employees' Provident Funds Ordinance, 1951 (VIII of 1951), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

SCHEDULE I

[See sections 2(i) and 4]

Any industry engaged in the manufacture or production of any of the following, namely:—

Cement.

Cigarettes.

Electrical, mechanical or general engineering products.

Iron and steel.

Paper.

Textiles (made wholly or in part of cotton or jute or silk, whether natural or artificial).

SCHEDULE II

[See section 6(2)]

MATTERS FOR WHICH PROVISION MAY BE MADE IN A SCHEME.

1. The employees or class of employees who shall join the Fund, and the conditions under which employees may be exempted from joining the Fund or from making any contribution.

2. The time and manner in which contributions shall be made to the Fund by employers and by, or on behalf of, employees, the contributions which an employee may, if he so desires, make under sub-section (1) of section 6, and the manner in which such contributions may be recovered.

3. The payment by the employer of such sums of money as may be necessary to meet the cost of administering the Fund and the rate at which and the manner in which the payment shall be made.

4. The constitution of boards of trustees for the administration of Funds, each of which shall consist of—

(a) nominees of the Central Government;

(b) nominees of such State Governments as the Central Government may, having regard to the jurisdiction of the board, specify in this behalf;

(c) representatives of the employers and employees concerned, nominated by the Central Government after consultation with the employers and employees concerned or with such of their respective

organisations as are representative of their interests, provided that the number of representatives of the employees shall in no case be less than the number of representatives of the employers.

5. The number of trustees on any board, the terms and conditions subject to which they may be nominated, the time, place and procedure of meetings of the board, the appointment of officers and other employees of the board, and the opening of regional and other offices.

6. The manner in which accounts shall be kept, the investment of moneys belonging to the Fund in accordance with any directions issued or conditions specified by the Central Government, the preparation of the budget, the audit of accounts and the submission of reports to the Central Government or to any specified State Government.

7. The conditions under which withdrawals from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.

8. The fixation by the Central Government in consultation with the boards of trustees concerned of the rate of interest payable to members.

9. The form in which an employee shall furnish particulars about himself and his family whenever required.

10. The nomination of a person to receive the amount standing to the credit of a member after his death and the cancellation or variation of such nomination.

11. The registers and records to be maintained with respect to employees and the returns to be furnished by employers.

12. The form or design of any identity card, token or disc for the purpose of identifying any employee, and for the issue, custody and replacement thereof.

13. The fees to be levied for any of the purposes specified in this Schedule.

14. The contraventions or defaults which shall be punishable under subsection (2) of section 6.

15. The further powers, if any, which may be exercised by Inspectors.

16. The manner in which accumulations in any existing provident fund shall be transferred to the Fund under section 15, and the mode of valuation of any assets which may be transferred by the employers in this behalf.

17. Any other matter which may be necessary or proper for the purpose of implementing the Scheme.

STATEMENT OF OBJECTS AND REASONS

The question of making some provision for the future of the industrial worker after he retires or for his dependents in case of his early death, has been under consideration for some years. The ideal way would have been provision through old age and survivors' pensions as has been done in the industrially advanced countries. But in the prevailing conditions in India, the institution of a pension scheme cannot be visualised in the near future. Another alternative may be for provision of gratuities after a prescribed period of service. The main defect of a gratuity scheme,

however, is that the amount paid to a worker or his dependents would be small, as the worker would not himself be making any contribution to the fund. Taking into account the various difficulties, financial and administrative, the most appropriate course appears to be the institution compulsorily of contributory provident funds in which both the worker and the employer would contribute. Apart from other advantages, there is the obvious one of cultivating among the workers a spirit of saving something regularly. The institution of a provident fund of this type would also encourage the stabilisation of a steady labour force in industrial centres.

2. The subject of legislation for institution compulsorily of contributory provident funds in industrial undertakings was discussed several times at tripartite meetings in which representatives of the Central and State Governments and of employers and workers took part. A large measure of agreement was reached that there should be such legislation. Further, a non-official Bill on this subject was introduced in the Central Legislature in 1948 and was withdrawn only on an assurance given that Government itself would soon consider the introduction of a comprehensive Bill. The view that the proposed legislation should be undertaken was lastly endorsed by the Conference of Provincial Labour Ministers held in January, 1951. It may be added that a statutory Contributory Provident Fund already exists for workers in coal mines, covering about 300,000 persons. This has been in operation for about five years and is working very satisfactorily.

3. The Bill provides for institution, in the first instance, of contributory provident funds in the six major organised industries named in Schedule I, except undertakings owned by the Central or a State Government or by a local authority. There is also a provision empowering the Central Government, by notification, to add other industries to the Schedule or to apply the Act to industrial undertakings employing less than fifty persons.

4. To avoid any hardship to new establishments, a provision has been made for exempting them for a period of three years and similar exemptions are given to other establishments which are less than three years old till they have been in operation for a period of three years in all. The rate of contribution will be $6\frac{1}{2}$ per cent. of the total emoluments of the worker, the worker and the employer each contributing these amounts. Further, the scheme could empower payment of a higher subscription by the workers at their option.

5. Where Provident Funds exist in private industry, contributions are usually a percentage of the basic wage. Unlike Government Departments, wages in private industry have not, however, been rationalised and there are very great variations in the level of basic wages in private industry, even in different units in the same industry. If contributions are reckoned on the basis of basic wage only, there will, therefore, be wide changes in the degree of benefit received. This will be unfair to the workers and may also penalise those employers who have brought the level of basic wages more in accord with current requirements. Government appreciates that dearness allowance is a variable factor depending on the cost of living. Nevertheless, for the reasons explained, Government is satisfied that contributions to the Provident Fund should be on the basis of basic pay plus dearness allowance. This should not be construed as in any way implying that dearness allowances on the existing rates are to be recognised as a permanent measure.

6. Most of the details relating to the Fund will be settled in accordance with a Scheme which, in the interest of uniformity, will be framed by the Central Government. The administration will, to a large extent, be decentralised in regard to undertakings falling within the sphere of State Governments.

7. Where provident funds offering equal or more advantageous terms are operating efficiently, provision has been made for them to continue subject to certain safeguards in the interest of the workers.

8. This Bill, when enacted, will repeal and re-enact an Ordinance promulgated on the same lines on the 15th November, 1951.

JAGJIVAN RAM.

NEW DELHI;

The 11th February, 1952.

The following Bills were introduced in Parliament on the 15th February, 1952:—

BILL No. 16 OF 1952.

A Bill further to amend the Industrial Disputes Act, 1947:

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Industrial Disputes (Amendment) Act, 1952.

2. Amendment of section 2, Act XIV of 1947.—To clause (i) of section 2 of the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), the following proviso shall be added, namely:—

“Provided that no person shall cease to be independent by reason only of the fact that he is a shareholder of an incorporated company which is connected with, or likely to be affected by, such industrial dispute; but in such a case, he shall disclose to the appropriate Government the nature and extent of the shares held by him in such company.”

3. Amendment of section 10, Act XIV of 1947.—In section 10 of the principal Act,—

(a) in sub-section (1)—

(i) for the words “If any industrial dispute exists or is apprehended, the appropriate Government may” the words “Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time” shall be substituted;

(ii) in clause (c), after the words “refer the dispute” the words “or any matter appearing to be connected with, or relevant to, the dispute” shall be inserted; and

(b) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(4) Where in an order referring an industrial dispute to a Tribunal has been, or is to be, referred to a Tribunal under this Act the appropriate Government has specified the points of dispute for adjudication, the Tribunal shall confine its adjudication to those points and matters incidental thereto.

(5) Where a dispute concerning any establishment or establishments has been, or is to be, referred to a Tribunal under this section and the appropriate Government is of opinion, whether on an application made to it in this behalf or otherwise, that the dispute is of such a nature that any other establishment, group or class of establishments of a similar nature is likely to be interested in, or affected by, such dispute, the appropriate Government may, at the time of making the reference or at any time thereafter but before the submission of the award, include in that reference such establishment, group or class of establishments, whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment, group or class of establishments.”

4. Amendment of section 20, Act XIV of 1947.—In sub-section (3) of section 20 of the principal Act, for the words, figures and brackets “when the award is published by the appropriate Government under section 17, or where an award has been laid before the Legislative Assembly or the House of the People under the proviso to sub-section (2) of section 15, when the resolution of the Legislative Assembly or the House of the People thereon is passed”, the words, figures and letter “on the date on which the award becomes enforceable under section 17A” shall be substituted.

5. Repeal of Ordinance IX of 1951.—(1) The Industrial Disputes (Amendment) Ordinance, 1951 (IX of 1951), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS.

The Industrial Disputes (Amendment) Bill, 1952 seeks to make certain changes in the law relating to the adjudication of industrial disputes which experience has shown are urgently required in order to remove doubts and to reduce litigation. The question whether a person holding shares in an establishment can be deemed to be “independent” for the purpose of appointment on a tribunal called upon to adjudicate on a dispute affecting that establishment was recently raised and was held to be not free from doubts. The Bill seeks to remove the disqualification, if any, attaching to the holding of shares. Occasionally when disputes arise in the large majority of units of an industry, it becomes necessary to include in the adjudication even the few units which show no evidence of the existence of actual disputes but which, if left out, are sure to raise disputes of their own. Power is sought to be taken for such inclusion.

JAGJIVAN RAM.

NEW DELHI;

The 9th February, 1952.

BILL No. 17 OF 1952.

A Bill further to amend the Territorial Army Act, 1948.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Territorial Army (Amendment) Act, 1952.

2. Insertion of new sections 7A and 7B, in Act LVI of 1948.—After section 7 of the Territorial Army Act, 1948 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely:—

“7A. Reinstatement in civil employ of persons required to perform military service.—(1) It shall be the duty of every employer by whom a person who is required to perform military service under section 7 was employed to reinstate him in his employment on the termination of the military service in an occupation and under conditions not less favourable to him than those which would have been applicable to him had his employment not been so interrupted:

Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person, or if for any reason reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter to the prescribed authority and that authority shall, after considering all matters which may be put before it and after making such further inquiry into the matter as may be prescribed, pass an order—

(a) exempting the employer from the provisions of this section, or

(b) requiring him to re-employ such person on such terms as he thinks suitable, or

(c) requiring him to pay to such person by way of compensation for failure to re-employ a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to obey the order of any such authority as is referred to in the proviso to sub-section (1), he shall be punishable with fine which may extend to one thousand rupees, and the court by which an employer is convicted under this section may order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.

(3) In any proceeding under this section it shall be a defence for an employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of his military service.

(4) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who, before such person is actually

required to perform military service under section 7, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved if the termination takes place after the issue of orders requiring him to perform military service under this Act.

7B. Preservation of certain rights of persons required to perform military service.—When any person required to perform military service under section 7 has any rights under any provident fund or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue, so long as he is engaged in military service under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed."

3. Amendment of section 14, Act LVI of 1948.—In sub-section (2) of section 14 of the principal Act, after clause (d), the following clauses shall be inserted, namely:—

"(dd) specify the authority for the purpose of the proviso to sub-section (1) of section 7A and the manner in which any inquiry may be held by him;

(ddd) define the rights under section 7B;"

STATEMENT OF OBJECTS AND REASONS

The Territorial Army Act, 1948, does not at present contain any provision affording protection in civil employment to those who join the Territorial Army, with the result that some private employers have found it possible to refuse to allow their employees to retain a lien on their appointments while on duty with the Territorial Army. These difficulties were foreseen when the Territorial Army Act was enacted, but it was hoped at the time that employers would generally co-operate with Government in this national effort and voluntarily ensure that no person suffers either financially or otherwise by joining the Territorial Army.

2. Although many employers have treated their employees fairly, even generously, in this matter, experience has shown that there are many others who are not willing to act likewise. It has therefore become expedient to amend the Territorial Army Act to impose a statutory liability on the employers to afford necessary protection in civil employment to members of the Territorial Army and the proposed legislation seeks to achieve this purpose.

BALDEV SINGH.

NEW DELHI;

The 9th February, 1952.

BILL No. 18 OF 1952.

A Bill further to amend the Preventive Detention Act, 1950.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Preventive Detention (Amendment) Act, 1952.

2. Amendment of section 1, Act IV of 1950.—In sub-section (3) of section 1 of the Preventive Detention Act, 1950 (hereinafter referred to as the principal Act), for the word "April" the word "October" shall be substituted.

3. Validity and duration of detention in certain cases.—Every detention order confirmed under section 11 of the principal Act and in force immediately before the commencement of this Act shall have effect as if it had been confirmed under the provisions of the principal Act as amended by this Act; and accordingly, where the period of detention is either not specified in such detention order or specified (by whatever form of words) to be for the duration or until the expiry of the principal Act or until the 31st day of March, 1952, such detention order shall continue to remain in force for so long as the principal Act is in force, but without prejudice to the power of the appropriate Government to revoke or modify it at any time.

STATEMENT OF OBJECTS AND REASONS

The Preventive Detention Act, 1950, is due to expire on the 31st March, 1952. The primary reason for the enactment of this legislation was to protect the country against activities intended to subvert the Constitution and the maintenance of law and order. Attempts to do so, though reduced in tempo, have not ceased and it is considered essential that the power conferred by the Preventive Detention Act, 1950, should be continued. Since, however, the measure is of a controversial nature, it is felt that the period of extension should, for the present, be only six months, so as to enable the new Parliament to give due consideration to giving it an extension for a further period. The amending Bill provides for the extension of the Act by six months.

KAILAS NATH KATJU.

NEW DELHI;

The 7th February, 1952.

The following Bills were introduced in Parliament on the 18th February, 1952:—

BILL* No. 19 OF 1952.

A Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Punjab for the service of the year ending on the 31st day of March, 1952.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Punjab Appropriation Act, 1952.

*The President has, in pursuance of clauses (1) and (3) of article 207 of the Constitution of India, recommended to Parliament the introduction and consideration of the Bill.

2. Issue of Rs. 6,21,42,110 out of the Consolidated Fund of the State of Punjab for the year 1951-52.—From and out of the Consolidated Fund of the State of Punjab there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of six crores, twenty-one lakhs, forty-two thousand and one hundred and ten rupees towards defraying the several charges which will come in course of payment during the year ending on the 31st day of March, 1952, in respect of the services specified in column 2 of the Schedule.

3 Appropriation.—The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Punjab by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the year ending on the 31st day of March, 1952.

SCHEDULE

(See sections 2 and 3)

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		Total
		Voted by Parliament	Charged on the Consolidated Fund	
	I.—SUPPLEMENTARY DEMANDS			
	EXPENDITURE CHARGED TO			
	REVENUE	Rs.	Rs.	Rs.
1	7.—Land Revenue	1,38,120	..	1,38,120
2	8.—State Excise Duties	13,060	..	13,060
3	9.—Stamps	12,680	..	12,680
4	12.—Charges on account of Motor Vehicles Act	17,350	..	17,350
	13.—Other Taxes and Duties			
5	XVII.—Irrigation Working Expenses—			
	18.—Irrigation Expenditure financed from Ordinary Revenues	11,30,320	..	11,30,320
6	19.—Construction of Irrigation Works financed from Ordinary Revenues	54,200	..	54,200
	22.—Interest on Debt and other Obligations . . . . .	..	22,43,000	22,43,000
	23.—Appropriation for Reduction or Avoidance of Debt . . . . .	..	35,23,100	35,23,100
	27.—Administration of Justice . . . . .	..	2,76,080	2,76,080
7	29.—Police	4,90,500	..	4,90,500
8	41.—Veterinary	1,20,910	..	1,20,910
9	50.—Civil Works	10	21,000	21,010

1	2	3		
		Sums not exceeding		Total
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	
		Rs.	Rs.	Rs.
10	Charges on Public Works Department, Buildings and Roads Establishment	43,900	..	43,900
11	52.—Interest on Capital Outlay on Electricity Schemes— XLA.—Receipts from Multi-purpose River Schemes—Deduct— Working Expenses XLI.—Receipts from Electricity Schemes—Deduct—Working Expenses (other than Establishment)	7,76,440	..	7,76,440
12	Charges on Electricity Establishment and Miscellaneous Expenditure	84,500	..	84,500
13	54.—Famino	2,34,540	..	2,34,540
14	55.—Superannuation Allowances and Pensions	9,12,490	..	9,12,490
15	57.—Miscellaneous	11,37,530	9,390	11,46,920
	TOTAL—EXPENDITURE CHARGED TO REVENUE	51,66,550	60,72,570	1,12,39,120
	EXPENDITURE NOT CHARGED TO REVENUE			
16	Advances not bearing interest— Advances Repayable Public Debt	1,14,900 ..	.. 5,00,00,000	1,14,900 5,00,00,000
17	68.—Construction of Irrigation Works	6,54,500	..	6,54,500
18	83.—Payments of Commuted Value of Pensions	1,33,510	..	1,33,510
	TOTAL—EXPENDITURE NOT CHARGED TO REVENUE	9,02,910	5,00,00,000	5,09,02,910
	II—TOKEN DEMANDS			
	EXPENDITURE CHARGED TO REVENUE			
19	25.—General Administration	10	..	10
20	47.—Miscellaneous Departments	10	..	10
21	37.—Education	10	..	10

1 No. of Vote	2 Services and purposes	3		
		Sums not exceeding		Total
		Voted by Parliament	Charged on the Consolidated Fund	
		Rs.	Rs.	Rs.
22	38.—Medical			
	39.—Public Health	10	..	10
23	40.—Agriculture.	10	..	10
	TOTAL—EXPENDITURE CHARGED TO REVENUE	50	..	50
	EXPENDITURE NOT CHARGED TO REVENUE			
24	72.—Capital Outlay on Industrial Development.	10	..	10
25	81.—Capital Account of Civil Works outside the Revenue Account.	10	..	10
26	81.A.—Capital Outlay on Elec- tricity Schemes (outside the Re- venue Account)	10	..	10
	TOTAL—EXPENDITURE NOT CHARGED TO REVENUE.	30	..	30
	GRAND TOTAL	60,69,540	5,60,72,570	6,21,42,110

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of articles 204(1) and 205 of the Constitution read with the Proclamation issued by the President in exercise of powers conferred on him by article 356 thereof to provide for the appropriation out of the Consolidated Fund of the State of Punjab of the moneys required to meet the grants made by Parliament for expenditure of the Government of Punjab for 1951-52.

MAHAVIR TYAGI.

NEW DELHI;

The 9th February, 1952.

BILL No. 20 OF 1952.

A Bill to provide for the repeal of the Criminal Tribes Act, 1924, and certain other laws corresponding thereto.

BE it enacted by Parliament as follows:—

1. Short title and extent.—(1) This Act may be called the Criminal Tribes Laws (Repeal) Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. Power to repeal Act VI of 1924 and corresponding laws.—The Central Government may, by notification in the Official Gazette, declare that the Criminal Tribes Act, 1924 (VI of 1924) or any law corresponding thereto in force in any State or part thereof shall no longer be in force in that State or part, and on the publication of such notification the said Act or, as the case may be, the corresponding law shall be repealed in that State or part.

STATEMENT OF OBJECTS AND REASONS

Towards the end of 1949 Government set up a Committee to inquire into the working of the Criminal Tribes Act, 1924, and to make recommendations for its modification or repeal. The main recommendation of the Committee was that the Criminal Tribes Act, 1924, as well as any corresponding Acts in force in any Part B State or Part C State may be repealed. The Committee also recommended that, before taking such action, legislation should be undertaken for the adequate surveillance and control of all habitual offenders without any distinction based on caste, creed or birth.

The views of the State Governments which have so far been received are generally in favour of the recommendation of the Committee. In fact the Criminal Tribes Act, 1924, is already, in practice, a dead letter in some States. In the opinion of the Government it is sufficient at present to take power to get the Criminal Tribes Act repealed by Parliament, leaving the enactment of a Habitual Offenders Act to the State Governments concerned since the enactment of such a measure would have to take into account local conditions and circumstances. The Bill has been so drafted as to give the Governments of States where the Criminal Tribes Act, 1924, is in active operation some time to enact an alternative measure.

R. K. SIDHWA.

NEW DELHI.

The 10th February, 1952.

BILL No. 21 OF 1952.

A Bill further to amend the Code of Criminal Procedure, 1898.

BILL No. 22 OF 1952.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Code of Criminal Procedure (Amendment) Act, 1952.

2. Substitution of new section for section 527 in Act V of 1898.—For section 527 of the Code of Criminal Procedure, 1898, the following section

shall be substituted, namely:—

“527. Power of Supreme Court to transfer cases and appeals.—

(1) Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case or appeal be transferred from one High Court to another High Court or from a criminal court subordinate to one High Court to another criminal court of equal or superior jurisdiction subordinate to another High Court.

(2) The Supreme Court may act under this section only on the application of the Attorney-General of India or of a party interested, and every such application shall be made by motion which shall, except when the applicant is the Attorney-General of India or the Advocate-General, be supported by affidavit or affirmation.

(3) The court to which any case or appeal is transferred under this section shall deal with the same as if it had been originally instituted in, or presented to, such court.

(4) Where any application for the exercise of the powers conferred by this section is dismissed, the Supreme Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider appropriate in the circumstances of the case.”

STATEMENT OF OBJECTS AND REASONS

Section 527 of the Code of Criminal Procedure, 1898, before it was adapted under the Government of India (Adaptation of Indian Laws) Order, 1937, gave authority to the Governor-General in Council to direct the transfer of any particular case or appeal from one High Court to another High Court or from one criminal court subordinate to one High Court to another criminal court of equal or superior jurisdiction subordinate to another High Court, whenever it appeared to him that such transfer would promote the ends of justice or tend to the general convenience of parties or witnesses. The aforesaid Order of 1937, however, replaced the words “Governor-General in Council” by the words “Provincial Government” in view of the constitutional position under the Government of India Act, 1935, with respect to the exercise of executive authority in the concurrent field. Consequently, the Central Government lost the authority to transfer cases or appeal from one State to another and such transfers were made subject to the concurrence of both the State Governments concerned. The question whether this power to transfer cases from one State to another State should not be recentralised was raised in Parliament last year. It has now been further examined in consultation with the Supreme Court and the State Governments, and as a result it is proposed that the power should be vested in the Supreme Court instead of in the State Governments. The Bill seeks to achieve this purpose.

KAILAS NATH KATJU.

NEW DELHI;

The 12th February, 1952.

BILL No. 22 OF 1952.

A Bill further to amend the Control of Shipping Act, 1947.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Control of Shipping (Amendment) Act, 1952.

2. Amendment of section 1, Act XXVI of 1947.—In sub-section (3) of section 1 of the Control of Shipping Act, 1947 (XXVI of 1947), for the figures "1952" the figures "1954" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Control of Shipping Act, 1947 (XXVI of 1947), will cease to be in force on the 31st day of March, 1952. The Act provides for the control of coastal shipping through a system of licensing and for certain ancillary matters. It ensures that the available tonnage is used to the best advantage of the country and helps in the implementation of Government's policy of coastal reservation for Indian Shipping. It is essential that the existing arrangements should be continued, pending revision and consolidation of the laws relating to merchant shipping and the promotion of permanent legislation on the subject. It is accordingly proposed to extend the life of the Act for a further period of two years within which period it is hoped that the contemplated permanent legislation would be enacted.

K. SANTHANAM.

NEW DELHI;

The 9th February, 1952.

The following Bill was introduced in Parliament on the 19th February, 1952:—

BILL* No. 28 OF 1952.

A Bill further to amend the Indian Tariff Act, 1934.

BE it enacted by Parliament as follows:—

1. Short title and commencement.—(1) This Act may be called the Indian Tariff (Amendment) Act, 1952.

(2) The provisions of clause (v) of section 2 [relating to Item No. 68(84)] shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; but the remaining provisions shall come into force at once.

2. Amendment of the First Schedule, Act XXXII of 1934.—In the First Schedule to the Indian Tariff Act, 1934,—

(i) in Items Nos. 21(8), 28(15), 28(18), 28(20), 40(4), 40(5), 50(8), 63(30), 63(35), 64, 64(3), 64(4), 65, 67, 67(1), 67(2), 68, 68(2), 69(2), 70, 70(1), 70(4), 70(5), 70(6), 70(9), 71(8), 72(12) and 78(7), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December, 31st 1951," wherever they occur, the word, figures and letters "December 31st, 1952" shall be substituted;

* The President has in pursuance of clause (1) of article 117 of the Constitution of India, recommended to Parliament the introduction of the Bill.

(ii) after Item No. 28(81), the following Item shall be inserted, namely:—

"28 (32)	Hydroquinone—					
	(a) of British manufacture.	Protective	26 per cent. <i>ad valorem</i>.	..	..	December 31st, 1953.
	(b) not of British manufacture.	Protective	Preferential rate of duty actually charged for the time being for such products of British manufacture <i>plus ten per cent. ad valorem</i>.	..	..	December 31st, 1953.";
	Provided that Hydroquinone manufactured in a British Colony shall be deemed to be of British manufacture.					

(iii) in Item No. 63(12), in the entry in the second column, after the words "excluding fish bolts and nuts", the words "and machine screws" shall be inserted;

(iv) for Item No. 63(33), the following Item shall be substituted, namely:—

"63 (33)	Iron or steel screws—					
	(a) wood-screws	Protective	30 per cent. <i>ad valorem</i>.	..	..	December 31st, 1952.
	(b) machine screws	Protective	30 per cent. <i>ad valorem</i>.	..	..	December 31st, 1954.";

(v) for Item No. 63(34), the following Item shall be substituted, namely:—

"63 (34)	Iron or steel hoops—					
	(a) Jute baling hoops—					
	(i) of British manufacture.	Protective	30 per cent. <i>ad valorem</i>.	..	..	December 31st, 1952.
	(ii) not of British manufacture.	Protective	40 per cent. <i>ad valorem</i>.	..	..	December 31st, 1952.
	(b) Cotton baling hoops—					
	(i) of British manufacture.	Protective	30 per cent. <i>ad valorem</i>.	..	..	December 31st, 1952.
	(ii) not of British manufacture.	Protective	40 per cent. <i>ad valorem</i>.	..	..	December 31st, 1952.";

(vi) in Item No. 78(15)—

(a) in the fourth column headed "Standard rate of duty" for the words "six per cent.", the words "three per cent." shall be substituted;

(b) in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1951" wherever they occur, the word, figures and letters "December 31st, 1952", shall be substituted;

(vii) after Item No. 78(16), the following Item shall be inserted, namely:—

"73 (17)	Electric brass lamp holders, excluding miniature brass lamp holders adapted for use in automobiles—					
(a) of British manufacture.	Protective	20 per cent. <i>ad valorem.</i>	..	..	December 31st, 1953.
(b) not of British manufacture.	Protective	30 per cent. <i>ad valorem.</i>	..	..	December 31st, 1953."

STATEMENT OF OBJECTS AND REASONS

The object of the present Bill is to amend the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934) in order to grant protection to certain industries and to extend the period of protection for certain other industries on the advice of the Tariff Board.

2. The industries which will be protected are—

- (a) Hydroquinone,
- (b) Iron or steel machine screws, and
- (c) Electric brass lamp holders.

3. The industries which will continue to be protected are—

- (i) Glucose,
- (ii) Calcium chloride,
- (iii) Sodium sulphite, sodium bisulphite and sodium thiosulphate,
- (iv) Oleic and stearic acids,
- (v) Plywood and battens for tea chests,
- (vi) Cotton and hair belting,
- (vii) Alloy, tool and special steels,
- (viii) Iron or steel wood-screws,
- (ix) Iron or steel baling hoops,
- (x) Ferro-silicon,
- (xi) Non-ferrous metals,
- (xii) Grinding wheels and segments,
- (xiii) Dry batteries, and
- (xiv) Batteries, for motor vehicles.

HAREKRUSHNA MAHTAB.

NEW DELHI;
The 15th February, 1952.

The following Report of the Select Committee on the Bill to provide for the control of rents and evictions, and for the lease of vacant premises to Government, in certain areas in the States of Delhi and Ajmer, was presented to Parliament on the 18th February, 1952:—

WE, the undersigned, members of the Select Committee to which the Bill to provide for the Control of rents and evictions, and for the lease of vacant premises to Government, in certain areas in the States of Delhi and Ajmer was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Upon the changes proposed by us, which are not formal or consequential we note as follows:—

Clause 2.—We think that 'dharamshala' should not be excluded from the scope of this Act and we have omitted the word "dharamshala" from the definition of "premises" in clause 2(g).

We have slightly amended the definition of "tenant" in clause 2(j) to make the intention clear.

Clause 5.—We consider that in order to encourage building activities, it is necessary to provide that a landlord may accept payment from a person under an agreement for the purpose of financing the construction of any residential building, if one of the conditions of the agreement is that the landlord is to let to such person the whole or part of the building when completed. We further consider that such payment should not exceed five years' agreed rent. Such payment should not be considered as an unlawful charge within the meaning of clause 5 and we have amended clause 5(4) accordingly.

Clause 6.—In the matter of lawful increase of standard rent, a distinction was made in the Bill between improvements made before the commencement of the Act and those made after such commencement. There does not appear to be any justification for any such distinction. We have accordingly provided that in no case, should the standard rent be increased by more than $7\frac{1}{2}$ per cent. of the cost of such improvement. We have amended clause 6(1) accordingly.

While we consider that house tax should not be borne by a tenant, we think that any agreement between a landlord and tenant entered into before the 1st January, 1952, should not be disturbed. The proviso to clause 6(2) has accordingly been amended.

Clause 8.—We consider that courts should not act of their own motion. We have amended clauses 8(1) and 8(3) accordingly.

In the matter of fixation of standard rent, a distinction was drawn in the Bill between constructions which were completed before the commencement of the Act and those which are completed after such commencement. There does not appear to be any justification for such a distinction. We have accordingly provided that in no case should standard rent exceed $7\frac{1}{2}$ per cent. of the cost of such construction. We also think that in calculating the cost of construction, the market value of the land at the date of the construction should be taken into account. We have amended clause 8(4) accordingly.

In clause 8(7) courts have been given discretion to specify the date from which standard rent should be deemed to have effect. We think, however, that such date should not, in any case, be more than six months before the date of the application for the fixation of standard rent. This clause has accordingly been amended.

Clause 11.—This clause has been amended in order to make the intention clear.

Clause 12.—We have amended this clause in order to make it clear that any application for the refund of any excess payment must be made within six months from the date of such payment.

Clause 13.—In the proviso to clause 13(1), we have amended parts (b) and (c) to make our intention clear that while in respect of sub-leases etc., granted after the commencement of this Act, consent of the landlord must be obtained in writing but in respect of sub-leases granted before the commencement of this Act, such consent need not necessarily be in writing.

We consider that where a landlord wants to re-build any premises or erect other buildings and it is necessary that the tenant should vacate the premises, the landlord should be entitled to recover possession of such premises. We have accordingly inserted a new part (g) in the proviso to clause 13(1). Subsequent parts of the proviso to clause 13(1) have been re-lettered.

A question may be raised whether clause 13 is retrospective and affects decrees and orders passed before the commencement of this Act. We have inserted a new sub-clause (6) to make it clear that clause 13 shall not apply to decrees and orders passed before the commencement of this Act.

Clause 15.—Where a landlord recovers possession of any premises for the purpose of building or re-building under part (g) of the proviso to clause 13(1), the tenant should be given an option to get possession of the premises when they are completed. Clause 15 has accordingly been amended.

Clause 17.—We think that public institutions should be entitled to recover possession of any premises *bona fide* required for furtherance of their activities. This clause has accordingly been amended.

New clause 28.—We have inserted this new clause to provide that under certain specified circumstances, a manager of a hotel or owner of a lodging house should be entitled to recover possession of the accommodation provided by him. He can do so only if he obtains a certificate from the controller.

Subsequent clauses have been re-numbered.

Clause 37 (old clause 36).—In order that proceedings under the Act may be expedited, we are of opinion that all inquiries including suits for eviction should be held in a summary manner. The court should follow the regular procedure only when questions of title are involved. We have amended clause 37(2) accordingly.

Clause 39 (old clause 38).—We are of opinion that in order to encourage building activities, it is necessary to exempt new constructions from the operation of this Act. It is not enough to vest the Government with powers to exempt such constructions by a notification. Such exemptions should be given by the Act itself. We have accordingly provided that all premises which are constructed after the commencement of this Act but within three years of such commencement should be exempt from the operation of this Act for a period of seven years from the completion of the construction.

We do not think that there is sufficient justification for excluding cinema houses and other public places of entertainment from the scope of this Act.

Clause 40 (original clause 39).—We consider that while in case of emergency the tenants should be allowed to make the repairs themselves, they should not be allowed to incur any expenditure exceeding two years' rent payable by them. We have accordingly amended clause 40(8).

New clause 41.—We have inserted this new clause to provide that a landlord should not be allowed to cut off or withhold any essential supply or services which is enjoyed by the tenant in respect of the premises.

Clause 44 (original clause 42).—In sub-clause (8) it was provided that if a tenant illegally sub-lets the whole or part of any premises, he is liable to pay a fine of one thousand rupees. We have reduced the fine to one hundred rupees.

We have inserted a new sub-clause (4) to provide for penalty for contravention of the provisions of new clause 44.

Clause 46 (original clause 44).—We consider that cases pending at the commencement of this Act before any court should be disposed of by that court in accordance with the provisions of Act XIX of 1947 which is being repealed; but these courts may follow the procedure laid down in this Act. We have amended clause 46(1) accordingly.

2. The Bill was published in Part II, section 2 of the *Gazette of India*, dated the 16th June, 1951.

8. We think that the Bill has not been so altered as to require circulation under Rule 77(4) of the Rules of Procedure and Conduct of Business, and we recommend that it be passed as now amended.

*THAKUR DAS BHARGAVA

N. V. GADGIL

R. K. SIDHVA

B. SHIVA RAO

S. N. BURAGOHAIR

ACHINT RAM

*GOKULBHAI DAULATRAM BHATT

GOKULLAL ASAWA

NAND LAL

NEW DELHI;

The 18th February, 1952.

MINUTES OF DISSENT

I

I am sorry I have to append this note of dissent to the report of the Select Committee in regard to several important matters. I am of the view that the period for which this Act should remain in operation should have been limited by a provision in the Act. We find that in almost all the provinces of India where such legislation is in force such a period has been indicated. Surely, such control of rents and evictions as are envisaged in the bill does not constitute a normal state of affairs and it can reasonably be expected that after the lapse of some time these controls will go away. Our aim should be to see that conditions are created in the

country in which controls, abnormal as they are, should not persist for a long time. It is, therefore, psychologically necessary to indicate the period so that conditions could be reviewed at the end of every such proposed period. I think that we should limit the period of this Act to three years.

2. I am opposed to Clause 8(b) which gives the power to the court to ignore the first letting in case the rent is in its view unreasonable. In the previous Act of 1947 the law declared its policy that the rent at which the premises were first let shall be regarded as the standard rent in case the house was let after the 2nd June of 1944. Many decrees have been passed by the courts on this basis. Cases have gone even to the high court in which this principle of fixing the rental value at the first letting value has been followed and recognised. It will be very unreasonable to disturb this rule of decision after it has been enforced for such a long time. Not only the courts have decided about the standard rent on the basis of the first letting but the landlords and the tenants have adjusted their mutual relations on that basis. To unsettle this principle now is to introduce a very great amount of uncertainty in the relations between tenants and landlords. Such a change is, therefore, calculated to affect the market value of the property and possibly to give rise to a crop of litigation. When in 1947 this principle was accepted and law was made on its basis the change which is now sought to be made will render all decrees and settlements on this basis as nugatory and the disputes that have been settled will be ripped open afresh. It must also be realised that this principle of first letting is not one which was recognised by the previous Act only. It may be argued, however, that there is no reason why in a proper case the court should not be given this power. The reply to this argument is clear that for an insignificant number of possible cases it is not fair to unsettle the relations between a much larger number of landlords and tenants and introduce uncertainty into what has been regarded for a long time a settled fact.

8. In fixing the standard rent the original bill made a distinction between the construction completed before the commencement of the Act and constructions completed after the commencement of the Act. In one place $7\frac{1}{2}$ per cent of the cost of construction is allowed and in the other 9 per cent. Now the Select Committee has been pleased to fix a uniform rate of $7\frac{1}{2}$ per cent in regard to improvements as well as constructions in clauses 6 and 8. In my opinion this rate of $7\frac{1}{2}$ per cent, is not a sufficient incentive under the present circumstances. Many representations were received from the landlords whose contention was that the rate should be 12 per cent, and even more as in their view an amount of $7\frac{1}{2}$ per cent, did not give them a reasonable return which they and the Government agreed to fix at 6 per cent. In my humble opinion the return of 6 per cent, is certainly very fair. But I am not convinced that with the fixation of $7\frac{1}{2}$ per cent, gross rent the return can be as high as 6 per cent. In my opinion the rate should be at least 9 per cent. When we take into consideration the different taxes and charges which the landlords have to meet and also consider the increased cost of repairs it is difficult to expect that $1\frac{1}{2}$ per cent, would cover all these charges and costs.

4. In Section 89 an exemption has been made in respect of constructions completed after the commencement of this Act and before the expiry of 3 years from such commencement. This exemption is to continue for 7 years from the date of completion. Moreover, cinemas and other public places of entertainment have now been included and the principle

embodied in the original Section 88 has been departed from. In my humble opinion exemption should have been granted to all constructions completed after the commencement of this Act for all time. This conditional and restricted exemption will not give a full incentive to the builders of new houses which is necessary to be given in public interest as recommended by the Birla Committee. Moreover there is no reason why cinemas and other public places of entertainment should be included within the province of such a law for control of rents etc. Evidently the tenants of the cinema houses etc. make such huge profits and there is no chance of their ever being ejected and they do not need any protection at all from the landlords. On the contrary there is no good reason why the landlords should be deprived of the benefit of increased rents when the tenants make such huge profits from the tenanted buildings. These tenements are a class by themselves and the principles and reasons which justify the control of rents and evictions for houses tenanted by ordinary citizens are certainly not applicable to their case. In their case the adage robbing Peter to pay Paul applies. I am, therefore, of the view that cinema houses and other places of public entertainment should be excluded from the purview of the operation of this Act.

There are certain other matters in respect of which I propose to move amendments when the Bill comes before the House.

THAKUR DAS BHARGAVA.

NEW DELHI;

The 13th February 1952

II

While I am in general agreement with the report of the Select Committee, I differ on the following points:—

2. *Clause 5. Payment of advance by agreement.*—A new sub-clause 4(b) to clause 5 has been added with a laudable object of providing facilities of finance for the constructions of and extension of buildings. It permits the receipt of an advance payment provided a specific mention in the agreement between the landlord and tenant is made to let the newly constructed or extended premises or part of it to the tenant or to his family members. But the following proviso defeats to a certain extent the purpose:

“Provided that such payment does not exceed the amount of agreed rent for a period of five years of the whole or part of the building to be let to such person.”

Limiting the period to five years would involve certain practical difficulties, and therefore the parties—the landlords and the tenant must be given wider latitude to act.

4(b) of this clause is mainly inserted to advance residential building progress but a residential building with a non-residential accommodation should not be debarred from the operation of this sub-clause.

I therefore suggest that suitable change may be made.

3. *Clause 39 Exemption of certain premises from the operation of the Act.*—Old section 38 is sought to be replaced by the new clause 39 which is introduced to encourage building activities. The clause reads as follows.

“All premises the construction of which is completed after the commencement of this Act, but before the expiry of three years from such commencement, shall be exempt from the operation of all the provisions of this Act for a period of seven years from the date of such completion’.

Exemption for seven years is a long period. It must be reduced to five years. This reduced period would be quite sufficient for a landlord to recoup himself.

In 'but before the expiry of three years of such commencement' the word 'commencement', I think, refers to the construction of the premises which should be completed within three years of its commencement and not to the commencement of the Act.

GOKULBHAI DAULATRAM BHATT.

NEW DELHI;

The 13th February, 1952.

(AS AMENDED BY THE SELECT COMMITTEE)

(Words *sidelined* or *underlined* indicate the amendments suggested by the Committee; *asterisks* indicate omissions.)

BILL No. 57 OF 1951

A Bill to provide for the control of rents and evictions, and for the lease of vacant premises to Government, in certain areas in the States of Delhi and Ajmer.

BE it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Delhi and Ajmer Rent Control Act, 1952.

(2) It extends to the areas specified in the First Schedule and may be extended by the Central Government, by notification in the Official Gazette, to such other areas in the State of Delhi or Ajmer as may, from time to time, be specified in the notification:

Provided that the Central Government may, at any time, by a like notification direct that it shall cease to be in force in any such area, and with effect from such date, as may be specified in the notification.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) "fair rate" means the fair rate fixed under section 24 and includes the rate as revised under section 25;

(b) "hotel or lodging house" means a building or part of a building where lodging with or without board or other services is provided for a monetary consideration;

(c) "landlord" means a person who, for the time being is receiving, or is entitled to receive, the rent of any premises, whether on his own account or on account of, or on behalf of, or for the benefit of, any other person or as a trustee, guardian or receiver for any other person or who would so receive the rent or be entitled to receive the rent, if the premises were let to a tenant;

(d) "lawful increase" means an increase in rent permitted under the provisions of this Act;

(e) "manager of a hotel" includes any person in charge of the management of the hotel;

(f) "owner of a lodging house" means a person who receives or is entitled to receive whether on his own account or on behalf of himself and others or as an agent or a trustee for any other person, any

monetary consideration from any person on account of board, lodging or other services;

(g) "premises" means any building or part of a building which is, or is intended to be, let separately for use as a residence or for commercial use or for any other purpose, and includes—

(i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building;

(ii) any furniture supplied by the landlord for use in such building or part of a building;

but does not include a room in a * hotel or lodging house.

(h) "prescribed" means prescribed by rules made under this Act;

(i) "standard rent", in relation to any premises, means,—

(i) where the standard rent has been fixed by the court under section 8, the rent so fixed; or

(ii) where the standard rent has not been fixed under section 8, the standard rent of the premises as determined in accordance with the provisions of the Second Schedule;

(j) "tenant" means any person by whom or on whose account rent is payable for any premises and includes such sub-tenants and other persons as have derived title under a tenant under the provisions of any law before the commencement of this Act.

3. Act not to apply to certain premises.—Nothing in this Act shall apply—

(a) to any premises belonging to the Government; or

(b) to any tenancy or other like relationship created by a grant from the Government in respect of the premises taken on lease, or requisitioned, by the Government.

CHAPTER II

STANDARD RENT AND PROVISIONS RELATING TO OTHER CHARGES BY THE LANDLORD.

4. Rent in excess of standard rent not recoverable.—(1) Except where rent is liable to periodical increase by virtue of an agreement entered into before the 1st day of January, 1939 or where rent is payable under a lease entered into before the 1st day of January, 1939, which has not expired before the first day of the period for which the rent is claimed, no tenant shall, notwithstanding any agreement to the contrary, be liable to pay to his landlord for the occupation of any premises any amount in excess of the standard rent of the premises unless such amount is a lawful increase of the standard rent in accordance with the provisions of this Act.

(2) Subject to the provisions of sub-section (1), any agreement for the payment of rent in excess of the standard rent shall be null and void and shall be construed as if it were an agreement for the payment of the standard rent only.

5. Unlawful charges not to be claimed or received.—(1) Subject to the provisions of this Act, no person shall claim or receive any rent in excess of the standard rent, notwithstanding any agreement to the contrary.

(2) No person shall, in consideration of the grant, continuance or renewal of a tenancy or sub-tenancy of any premises, claim or receive the

payment of any premium, *pugree*, fine, advance or any other like sum in addition to the rent.

Explanation.—Receipt of rent in advance for a period not exceeding one month shall not be deemed to be an advance within the meaning of this section.

(3) It shall not be lawful for the tenant or any other person acting or purporting to act on behalf of the tenant or a sub-tenant to claim or receive any payment in consideration of the relinquishment of his tenancy or sub-tenancy, as the case may be, of any premises.

(4) Nothing in this section shall apply—

(a) to any payment made in pursuance of an agreement entered into before the 1st day of November, 1939; or

(b) to any payment made under an agreement by any person to a landlord for the purpose of financing the construction of the whole or part of a residential building on the land belonging to the landlord, if one of the conditions of the agreement is that the landlord is to let to such person the whole or part of the building when completed for the use of such person or any member of his family:

Provided that such payment does not exceed the amount of agreed rent for a period of five years of the whole or part of the building to be let to such person.

Explanation.—For the purposes of clause (b), of this sub-section, a “member of the family” means, in the case of an undivided Hindu family, any member of such family and in the case of any other family, the husband, wife, son, daughter, father, mother, brother, sister or any other person dependent on him.

6 Lawful increases of standard rent.—(1) Where a landlord has at any time, whether before or after the commencement of this Act, incurred expenditure for any improvement, addition or structural alteration in the premises, not being expenditure on decoration or tenantable repairs necessary or usual for such premises, and the cost of that improvement, addition or alteration has not been taken into account in determining the standard rent of the premises, the landlord may lawfully increase the standard rent per year * * * * by an amount not exceeding seven and a half per cent of such cost.*

(2) Where a landlord pays in respect of the premises any charge for electricity or water consumed in the premises or any other charge levied by a local authority having jurisdiction in the area which is ordinarily payable by the tenant, he may recover from the tenant any amount so paid by him; but no landlord shall recover from the tenant whether by means of an increase in rent or otherwise the amount of any tax on building or land imposed in respect of the premises occupied by the tenant:

Provided that nothing in this sub-section shall affect the liability of any tenant under an agreement entered into before the 1st day of January, 1952, whether express or implied, to pay from time to time the amount of any such tax as aforesaid.

(3) Where a part of the premises let for use to a tenant has been sub-let by him—

(a) the landlord may lawfully increase the rent payable by the tenant—

(i) in the case of any premises let for residential purposes, by an amount not exceeding twelve and one-half per cent. of the standard rent of the part sub-let;

(ii) in the case of any premises let for other purposes, by an amount not exceeding twenty-five per cent. of the standard rent of the part sub-let,

(b) the tenant may lawfully increase the rent payable by the sub-tenant—

(i) in the case of any premises let for residential purposes, by an amount not exceeding twenty-five per cent. of the standard rent of the part sub-let; and

(ii) in the case of any premises let for other purposes, by an amount not exceeding fifty per cent. of the standard rent of the part sub-let;

(c) the tenant shall, on being so requested in writing by the landlord, supply, within fourteen days of such request being made, a statement in writing giving full particulars of any sub-letting including the rent charged.

7. Notice of increase of, or addition to, rent.—(1) Where a landlord wishes to increase the rent of any premises, he shall give the tenant notice of his intention to make the increase and in so far as such increase is lawful under this Act, it shall be due and recoverable only in respect of the period of the tenancy after the end of the month in which the notice is given..

(2) Every notice under sub-section (1) shall be in writing signed by or on behalf of the landlord and given in the manner provided in section 106 of the Transfer of Property Act, 1882 (IV of 1882).

(3) For the avoidance of doubt, it is hereby declared that the provisions of this section apply equally to any increase in rent payable by the sub-tenant.

8. Cases in which standard rent may be fixed by court.—(1) In any of the following cases, namely:—

(a) where, for any reason whatsoever, any dispute arises between a landlord and the tenant regarding the amount of standard rent payable in respect of any premises in accordance with the provisions of the Second Schedule; or

(b) where, at any time on or after the 2nd day of June, 1944, any premises are first let and the rent at which they are let is, in the opinion of the court, unreasonable;

the court may, on an application made to it for the purpose * * * or in any suit or proceeding, fix the standard rent at such an amount as, having regard to the provisions of this Act and the circumstances of the case, the court deems just.

(2) Where there is any dispute between the landlord and the tenant regarding the amount which is a lawful increase of the standard rent, the court may determine such amount.

(3) Where for any reason it is not possible to determine the standard rent of any premises on the principles set forth in the Second Schedule, the court may, on an application made to it for the purpose, * * * determine the standard rent, and in so doing, shall have regard to the standard rents of similar premises in the same locality and other circumstances of the case.

(4) In fixing the standard rent of any premises under clause (b) of sub-section (1), the court shall fix an amount which appears to it to be reasonable and no standard rent so fixed shall * * * exceed seven and one-half per cent. of the reasonable cost of * construction of such premises.

* * * * *

Explanation.—For the purpose of this sub-section, the “cost of construction”, in respect of any premises, includes the market value of the land comprised in the premises at the time of the completion of such construction.

(5) The standard rent shall in all cases be fixed as for a tenancy of twelve months:

Provided that where any premises are let or re-let for a period of less than twelve months, the standard rent for such tenancy shall bear the same proportion to the annual standard rent as the period of tenancy bears to twelve months.

(6) Where the court determines the standard rent of any premises under this section, the court shall determine the standard rent of the premises in an unfurnished state, and may also determine an additional charge to be payable on account of any fittings or furniture supplied by the landlord and it shall be lawful for the landlord to recover such additional charge from the tenant.

(7) In every case in which the court determines the standard rent of any premises under this section, it shall specify a date from which the standard rent so determined shall be deemed to have effect:

Provided that in no case, the date so specified shall be earlier than six months prior to the date of filing of the application for the determination of the standard rent or, as the case may be, of the institution of the suit or proceeding in which the standard rent is determined.

9. Fixation of interim rent by the court.—If an application for fixing the standard rent or for determining the lawful increase of such rent is made under section 8, the court shall, as expeditiously as possible, make an order specifying the amount of the rent or the lawful increase to be paid by the tenant to the landlord pending the final decision of the application and shall appoint a date from which the rent or lawful increase so specified shall be deemed to have effect.

10. Limitation of liability of middleman.—No collector of rents or middleman shall be liable to pay to his principal, in respect of any premises, any sum by way of rental charges which exceeds the amount which he is entitled under this Act to realise from the tenant or tenants of the premises.

11. Limitation for applications for fixation of standard rent.—Any landlord or tenant may file an application to the court for fixing the standard rent of the premises or for determining the lawful increase of such rent—

(a) in the case of any premises which were let, or in which the cause of action for lawful increase of rent arose, before the commencement of this Act, within six months from such commencement;

(b) in the case of any premises let after the commencement of this Act, within six months from the date on which it is so let; and

(c) in the case of any premises in which the cause of action for lawful increase of rent arises after the commencement of this Act, within six months from that date

Provided that the court may entertain the application after the expiry of the said period of six months if it is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

12. Refund of rent, premium, etc., not recoverable under this Act.—

Where any amount has been paid by any person whether before or after the commencement of this Act,—

(a) on account of rent, being an amount which is by reason of the provisions of this Act, not recoverable, or

(b) as premium, *pugree*, fine, advance or other like sum in addition to the rent, the receiving of which is prohibited under this Act,

the court may, on an application made to it in this behalf at any time within a period of six months from the date of such payment, direct the landlord by whom or on whose behalf the amount was received to refund the amount to such person or, if such person is a tenant, direct that the amount so paid shall be deducted from the rent payable by the tenant to the landlord.

CHAPTER III

CONTROL OF EVICTION OF TENANTS

13. Protection of a tenant against eviction.—(1) Notwithstanding anything to the contrary contained in any other law or any contract, no decree or order for the recovery of possession of any premises shall be passed by any court in favour of the landlord against any tenant (including a tenant whose tenancy is terminated)

Provided that nothing in this sub-section shall apply to any suit or other proceeding for such recovery of possession if the court is satisfied—

(a) that the tenant has neither paid nor tendered the whole or the arrears of rent due within one month of the date on which a notice of demand for the arrears of rent has been served on him by the landlord in the manner provided in section 106 of the Transfer of Property Act, 1882 (IV of 1882); or

(b) that the tenant without obtaining the consent of the landlord in writing has, after the commencement of this Act,—

(i) sub-let, assigned or otherwise parted with the possession of, the whole or any part of the premises : or

(ii) used the premises for a purpose other than that for which they were let ; or

(c) that the tenant without obtaining the consent of the landlord has, before the commencement of this Act,—

(i) sub-let, assigned or otherwise parted with the possession of, the whole or any part of the premises : or

(ii) used the premises for a purpose other than that for which they were let ;

(d) that the premises were let for use as a residence and neither the tenant nor any member of his family has been residing therein for a period of six months immediately before the date of the institution of any suit or proceeding for recovery of possession; or

(e) that the premises let for residential purposes are required *bona fide* by the landlord who is the owner of such premises for occupation as a residence for himself or his family and that he has no other suitable accommodation,

Explanation.—For the purposes of this clause, “residential premises” include any premises which having been let for use as a residence are, without the consent of the landlord, used incidentally for commercial or other purposes; or

(f) that the premises have become unsafe or unfit for human habitation and are *bona fide* required by the landlord for carrying out repairs which cannot be carried out without the premises being vacated; or

(g) that the premises are *bona fide* required by the landlord for the purpose of re-building the premises or for the replacement of the premises by any building or for the erection of other buildings and that such building or re-building cannot be carried out without the premises being vacated, or

(h) that the tenant has, whether before or after the commencement of this Act, built, acquired vacant possession of, or been allotted, a suitable residence; or

(i) that the premises were let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and that the tenant has ceased, whether before or after the commencement of this Act, to be in such service or employment; or

(j) that the conduct of the tenant is such that it is a nuisance or that it causes annoyance to the occupiers of the neighbouring premises or other occupiers of the same premises; or

(k) that the tenant has, whether before or after the commencement of this Act, caused or permitted to be caused substantial damage to the premises, or notwithstanding previous notice has used or dealt with the premises in a manner contrary to any condition imposed on the landlord by the Government or the Delhi Improvement Trust while giving him a lease of the land on which the premises are situated; or

(l) that the landlord requires the premises in order to carry out any building work at the instance of the Government or the Delhi Improvement Trust in pursuance of any improvement scheme or development scheme.

(2) No decree or order for recovery of possession shall be passed on the ground specified in clause (a) of the proviso to sub-section (1), if, on the first day of the hearing of the suit or within such further time as may be allowed by the court, the tenant pays in court the arrears of rent then due together with the costs of the suit.

(3) For the purposes of clause (b) or clause (c) of the proviso to sub-section (1), a court may presume that the premises let for use as a residence were or are sub-let by a tenant in whole or in part to another person, if

it is satisfied that such person not being a servant of the tenant or a member of the family of such servant was or has been residing in the premises or any part thereof for a period exceeding one month otherwise than in commensality with the tenant.

* * * * *

(4) Where a decree for recovery of possession is passed on the grounds specified in * clause (e), the landlord shall not be entitled to obtain possession of the premises by an order of the court before the expiration of a period of three months from the date of the decree.

(5) If the tenant contests the suit as regards the claim for ejection, the plaintiff-landlord may make an application at any stage of the suit for an order on the tenant-defendant to deposit month by month rent at a rate at which it was last paid and also the arrears of rent, if any, and the court, after giving an opportunity to the parties to be heard, may make an order for the deposit of rent at such rate month by month as it thinks fit and the arrears of rent, if any, and on the failure of the tenant to deposit the arrears of rent within fifteen days of the date of the order or to deposit the rent at such rate for any month by the 15th of the next following month, the court shall order the defence against ejection to be struck out and the tenant to be placed in the same position as if he had not defended the claim to ejection; and the landlord may withdraw the amount of money in deposit without prejudice to his claim to any decree or order for recovery of possession of the premises.

(6) For avoidance of doubts it is hereby declared that nothing in this section shall apply to any decree or order for recovery of possession of any premises passed before the commencement of this Act.

14. Recovery of possession for occupation and re-entry.—Where a landlord recovers possession of any premises from the tenant by virtue of any decree or order made on the grounds specified in clause (e) of the proviso to sub-section (1) of section 13 and the premises are not occupied by the landlord as a residence for himself or his family within two months of obtaining such possession or the premises having been so occupied, are, at any time within eight months of such occupation, re-let in whole or in part to any person other than the evicted tenant, the court may, on the application of such evicted tenant, place him in vacant possession of the premises and award such damages to him as it thinks fit against the landlord.

15. Recovery of possession for repairs and re-building and re-entry.—
(1) The court shall, when passing any decree or order on the grounds specified in clause (f) or clause (g) of the proviso to sub-section (1) of section 13, ascertain from the tenant whether he elects to be placed in occupation of the premises or part thereof from which he is to be evicted and if the tenant so elects, shall record the fact of the election in the decree or order and specify therein the date on or before which he shall deliver possession so as to enable the landlord to commence the work of repairs or building or re-building, as the case may be.

(2) If the tenant delivers possession on or before the date specified in the decree or order, the landlord shall, on the completion of the work of repairs or building or re-building place the tenant in occupation of the premises or part thereof.

(3) If, after the tenant has delivered possession on or before the date specified in the decree or order, the landlord fails to commence the work of repairs or building or re-building within one month of the specified date

or fails to complete the work in a reasonable time or having completed the work, fails to place the tenant in occupation of the premises in accordance with sub-section (2), the court may, on the application of the tenant made within one year from the specified date, order the landlord to place the tenant in occupation of the premises or part thereof on the original terms and conditions or to pay to such tenant such compensation as may be fixed by the court.

16. Recovery of possession in case of tenancies for limited period.—

Where a landlord does not require the whole or any part of any premises for a particular period and he lets the premises or part thereof as a residence for such period as may be agreed to in writing between himself and the tenant and the tenant does not, on the expiry of the said period, vacate such premises, the court may, on an application of such landlord, place him in vacant possession of the premises or part thereof by evicting the tenant and every other person who may be in occupation of such premises.

17. Special provision for recovery of possession in certain cases.—

Where the landlord in respect of any premises is any company or other body corporate or any local authority, or any public institution and the premises are required for the use of employees of such landlord or in the case of a public institution, for the furtherance of its activities, then, notwithstanding anything contained in section 13, the court may, on an application of such landlord, place him in vacant possession of such premises by evicting the tenant and every other person who may be in occupation thereof, if the court is satisfied—

(a) that the tenant, to whom such premises were let for use as a residence at a time when he was in the service or employment of the landlord, has ceased to be in such service or employment; or

(b) that the tenant has acted in contravention of the terms, express or implied, under which he was authorised to occupy such premises; or

(c) that any person is in unauthorised occupation of such premises; or

(d) that the premises are *bona fide* required by the public institution for the furtherance of its activities.

Explanation.—For the purposes of this section, public institution includes any educational institution, library, hospital and charitable dispensary.

18. Permission to construct additional structures.—Where the landlord proposes to make any improvement in, or construct any additional structure on, any building which has been let to a tenant and the tenant refuses to allow the landlord to make such improvement or construct such additional structure, the landlord may apply to the court and the court may, if it is satisfied that the landlord is ready and willing to commence the work and that such work will not cause any undue hardship to the tenant, permit the landlord to do such work and may make such other orders as it thinks fit in the circumstances of the case.

19. Special provision regarding vacant building sites.—(1) The provisions of this section shall apply notwithstanding anything contained in section 18, but only in relation to premises in such areas as the Central Government may from time to time, specify by notification in the Official Gazette.

(2) Where any premises which have been let comprise vacant grounds upon which it is permissible under the building regulations or other municipal bye-laws for the time being in force to erect any building, whether for use as a residence or any other purpose and the landlord proposing to erect such building is unable to obtain possession of these grounds from the tenant by agreement with him, the landlord may apply to the court, and the court may, if it is satisfied that the landlord is ready and willing to commence the work and that the severance of the vacant grounds from the rest of the premises will not cause undue hardship to the tenant,—

- (a) direct such severance,
- (b) place the landlord in possession of the vacant grounds,
- (c) determine the rent payable by the tenant thereafter in respect of the rest of the premises, and
- (d) make such other orders as it thinks fit in the circumstances of the case.

20. Sub-tenant to become tenant on determination of tenancy.—Where the interest of a tenant of any premises is determined for any reason, any sub-tenant to whom the whole or any part of such premises has been lawfully sub-let whether before or after the commencement of this Act shall, subject to the provisions of this Act, be deemed to become the tenant of the landlord on the same terms and conditions on which he would have held from the tenant if the tenancy had continued.

21. Vacant possession to the landlord.—Notwithstanding anything contained in any other law, where the interest of a tenant in any premises is determined for any reason whatsoever and any decree or order is passed by a court under this Act for the recovery of possession of such premises, the decree or order shall, subject to the provisions of section 20, be binding on all persons who may be in occupation of the premises and vacant possession thereof shall be given to the landlord by evicting all such persons therefrom:

Provided that nothing in this section shall apply to any person who has an independent title to such premises.

CHAPTER IV

HOTELS AND LODGING HOUSES

22. Application of this Chapter.—The provisions of this Chapter shall apply to all hotels and lodging houses within the Municipalities of New Delhi and Delhi and the Notified Area of the Civil Station, Delhi and may be applied by the Central Government, by notification in the Official Gazette, to such other areas in the State of Delhi or Ajmer as may be specified in the notification.

23. Appointment of Controller.—The Central Government may, by notification in the Official Gazette, appoint any person to be a Controller for the purpose of performing the functions assigned to him by this Chapter.

24. Fixing of fair rate.—(1) Where the Controller, on a written complaint or otherwise, has reason to believe that the charges made for board or lodging or any other service provided in any hotel or lodging house are excessive, he may fix a fair rate to be charged for board, lodging or other services provided in the hotel or lodging house and in fixing such fair rate, specify separately the rate for lodging, board or other services.

(2) In determining the fair rate under sub-section (1), the Controller shall have regard to the circumstances of the case and to the prevailing rate of charges for the same or similar accommodation, board and service, during the twelve months immediately preceding the 1st day of September, 1939 and to any general increase in the cost of living after that date.

25. Revision of fair rate.—On a written application from the manager of a hotel or the owner of a lodging house or otherwise, the Controller may, from time to time, revise the fair rate to be charged for board, lodging or other service, and fix such rate as he may deem fit having regard to any general rise or fall in the cost of living which may have occurred after the fixing of fair rate.

26. Charges in excess of fair rate not recoverable.—When the Controller has determined the fair rate of charges—

(a) the manager of the hotel or the owner of the lodging house, as the case may be, shall not charge any amount in excess of the fair rate and shall not, except with the previous written consent of the Controller, withdraw from the lodgers any concession or service allowed at the time when the Controller determined the fair rate;

(b) any agreement for the payment of any charges in excess of such fair rate shall be void in respect of such excess and shall be construed as if it were an agreement for payment of the said fair rate;

(c) any sum paid by a lodger in excess of the fair rate shall be recoverable by him at any time within a period of six months from the date of the payment from the manager of the hotel or the owner of the lodging house or his legal representatives and may, without prejudice to any other mode of recovery, be deducted by such lodger from any amount payable by him to such manager or owner.

27. Provisions relating to inquiries by Controller.—(1) No fair rate under this Chapter shall be fixed by the Controller except after holding an inquiry.

(2) Every such inquiry shall be made summarily in the prescribed manner.

(3) For the purposes of holding any inquiry under sub-section (1), the Controller may require the manager of a hotel or the owner of a lodging house to produce before him any books of account, documents or other information relating to the hotel or lodging house concerned which he may consider necessary and may himself enter, or authorise any person subordinate to him to enter, upon any premises to which the inquiry relates.

28. Recovery of possession by manager of a hotel or the owner of a lodging house.—Notwithstanding anything contained in this Act, a manager of a hotel or owner of a lodging house shall be entitled to recover possession of the accommodation provided by him on obtaining a certificate from the Controller certifying—

(a) that the lodger has been guilty of conduct which is a nuisance or which causes annoyance to any adjoining or neighbouring lodger;

(b) that the accommodation is reasonably and *bona fide* required by the owner of the hotel or lodging house, as the case may be, either for his own occupation or for the occupation of any person for whose benefit the accommodation is held, or any other cause which may be deemed satisfactory by the Controller;

(c) that the lodger has failed to vacate the accommodation on the termination of the period of the agreement in respect thereof;

(d) the lodger has done any act which is inconsistent with the purpose for which the accommodation was given to him or which is likely to affect adversely or substantially the owner's interest therein.

29. Appeals.—(1) Any person aggrieved by the order of the Controller under this Chapter may, within fifteen days on which the order is communicated to him, prefer an appeal in writing to the Chief Commissioner.

(2) The Chief Commissioner shall call for the record of the Controller and after examining the record and after making such further inquiry as he thinks fit either personally or through the Controller, shall decide the appeal.

(3) The decision of the Chief Commissioner and subject only to such decision, the order of the Controller shall, for the purposes of this Chapter, be final.

30. Penalty.—Any manager of a hotel or owner of a lodging house who—

(i) fails or refuses to produce before the Controller any books of account or document or other information which the Controller may require him to produce under sub-section (3) of section 27, or refuses to allow the Controller or any person authorised by him under the said sub-section access to the premises to which the inquiry relates; or

(ii) charges any amount in excess of the fair rate in contravention of section 26,

shall be punishable with imprisonment for a term which may extend to three years or with fine or with both

31. Controller to be deemed to be public servant.—A Controller appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

32. Protection of action taken under this Chapter.—No suit, prosecution or other legal proceeding shall lie against a Controller in respect of anything which is in good faith done or intended to be done under this Chapter.

CHAPTER V

JURISDICTION OF COURTS, APPEALS, REVIEW AND REVISION

33. Jurisdiction of courts.—(1) Any civil court in the State of Delhi or Ajmer which has jurisdiction to hear and decide a suit for recovery of possession of any premises shall have jurisdiction to hear and decide any case under this Act relating to such premises if it has pecuniary jurisdiction and is otherwise competent to hear and decide such a case under any law for the time being in force.

(2) The value of any case under this Act, for the purposes of the pecuniary jurisdiction of the court, shall be determined by the amount of rent which is or would be payable for a period of twelve months, calculated according to the highest amount claimed in the case.

(3) If any question arises whether any suit, application or other proceeding is a case under this Act, the question shall be determined by the court.

(4) For the purposes of this Chapter, a case under this Act, includes any suit, application or other proceeding under this Act and also includes any claim or question arising out of this Act or any of its provisions.

34. Appeals.—(1) Any person aggrieved by any decree or order of a court passed under this Act may, in such manner as may be prescribed, prefer an appeal—

(a) to the court of the senior subordinate judge, if any, where the value of the case does not exceed two thousand rupees: \

Provided that where there is no senior subordinate judge, the appeal shall lie to the district judge;

(b) to the court of the district judge, where the value of the case exceeds two thousand rupees but does not exceed ten thousand rupees; and

(c) to the High Court, where the value of the case exceeds ten thousand rupees.

(2) No second appeal shall lie from any decree or order passed in any case under this Act.

35. Revision and review.—(1) The High Court may, at any time, call for the record of any case under this Act for the purpose of satisfying itself that a decision made therein is according to law and may pass such order in relation thereto as it thinks fit.

(2) Any court may, after giving notice to the parties, review its own order.

36. Limitation.—Subject to the provisions of Part II and Part III of the Indian Limitation Act, 1908 (IX of 1908), any person aggrieved by a decree or an order passed in any case under this Act may prefer an appeal—

(a) where it lies to any court other than the High Court, within thirty days from the date of such decree or order; and

(b) where it lies to the High Court, within sixty days from the date of such decree or order.

37. Procedure before courts.—

* * *

Subject to any rules that may be made under this Act, the court may hold a summary inquiry into any case under this Act (other than a suit for eviction under section 13 in which the question of title is involved) and the practice and the procedure of a court of small causes shall, as far as may be, apply to such cases as if they were suits and other proceedings cognizable by a court of small causes.

CHAPTER VI

MISCELLANEOUS

38. Act to over-ride other laws.—The provisions of this Act and of the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

39. Exemption of certain premises from the operation of the Act.—All premises, the construction of which is completed after the commencement of this Act, but before the expiry of three years from such commencement, shall be exempt from the operation of all the provisions of this Act for a period of seven years from the date of such completion.

40. Landlord's duty to keep the premises in good repair.—(1) Notwithstanding anything contained in any law for the time being in force, and in the absence of agreement to the contrary by the tenant, every landlord shall be bound to keep the premises in good and tenantable repair.

(2) If the landlord neglects or fails to make within a reasonable time, after notice in writing any repairs which he is bound to make under sub-section (1), the tenant may make the same himself and deduct the expenses of such repairs from the rent or otherwise recover them from the landlord:

Provided that the amount so deducted or recoverable in any year shall not exceed one-twelfth of the rent payable by the tenant for that year.

(3) Where any repairs without which the premises are not habitable or useable except with undue inconvenience are to be made and the landlord neglects or fails to make them after notice in writing, the tenant may apply to the court for permission to make such repairs himself, provided that the cost of such repairs does not exceed rent for a period of two years payable by that tenant and where such repairs are made with the permission of the court, the limitation as to the amount deductible or recoverable as provided in sub-section (2) shall not apply

41. Cutting off or withholding essential supply or service.—(1) No landlord either himself or through any person purporting to act on his behalf shall without just or sufficient cause cut off or withhold any essential supply or service enjoyed by the tenant in respect of the premises let to him.

(2) If a landlord contravenes the provisions of sub-section (1), the tenant may make an application to the court complaining of such contravention.

(3) If the court is satisfied that the essential supply or service was cut off or withheld by the landlord with a view to compel the tenant to vacate the premises or to pay an enhanced rent, the court may pass an order directing the landlord to restore the amenities immediately pending the inquiry referred to in sub-section (4).

Explanation.—An interim order may be passed under this sub-section without giving notice to the landlord.

(4) If the court on inquiry finds that the essential supply or service enjoyed by the tenant in respect of the premises was cut off or withheld by the landlord without just or sufficient cause, he shall make an order directing the landlord to restore such supply or service

(5) The court may in its discretion direct that compensation not exceeding fifty rupees—

(a) be paid to the landlord by the tenant, if the application under sub-section (2) was made frivolously or vexatiously;

(b) be paid to the tenant by the landlord if the landlord had cut off or withheld the supply or service without just or sufficient cause

Explanation—In this section, "essential supply or service" includes supply of water, electricity, lights in passages and on staircases, conservancy and sanitary services.

42. Landlord's duty to give notice of new constructions to Government.—Whenever, after the commencement of this Act, any premises are constructed, the landlord shall, within fifteen days of the completion of such construction, give intimation thereof in writing to the Estate Officer to the Government of India or to such other officer as may be specified in this behalf by the Government.

43. Leases of vacant premises to Government.—(1) The provisions of this section shall apply only in relation to premises within the Municipality of New Delhi which are, or are intended to be, let for use as a residence.

(2) Whenever any premises the standard rent of which is not less than two thousand and four hundred rupees per year becomes vacant, either by the landlord ceasing to occupy the premises or by the termination of a tenancy or by the eviction of a tenant or by the release of the premises from requisition or otherwise,—

(a) the landlord shall, within seven days of the premises becoming vacant, give intimation thereof in writing to the Estate Officer to the Government of India;

(b) whether or not such intimation is given, the Estate Officer may serve on the landlord by post or otherwise a notice—

(i) informing him that the premises are required by the Government for such period as may be specified in the notice, and

(ii) requiring him, and every person claiming under him, to deliver possession of the premises forthwith to such officer or person as may be specified in the notice:

Provided that where the landlord has given the intimation required by clause (a) no notice shall be issued by the Estate Officer under clause (b) more than seven days after the delivery to him of the intimation:

Provided further that nothing in this sub-section shall apply in respect of any premises the possession of which has been obtained by the landlord on the basis of any decree or order made on the grounds set forth in clause (e) of the proviso to sub-section (1) of section 18 or in respect of any premises which have been released from requisition for the use and occupation of the landlord himself.

(3) Upon the service of a notice under clause (b) of sub-section (2), the premises shall be deemed to have been leased to the Government for the period specified in the notice, as from the date of the delivery of the intimation under clause (a) of sub-section (2) or in a case where no such intimation has been given, as from the date on which possession of the premises is delivered in pursuance of the notice, and the other terms of the lease shall be such as may be agreed upon between the Government and the landlord or in default of agreement, as may be determined by the court, in accordance with the provisions of this Act.

(4) In every case where the landlord has in accordance with the provisions of sub-section (2) given intimation of any premises becoming vacant and the premises are not taken on lease by the Government under this section, the Government shall pay to the landlord a sum equal to one-fifty-second of the standard rent per year of the premises.

(5) Any premises taken on lease by the Government under this section may be put to any such use as the Government thinks fit, and in particular the Government may permit the use of the premises for the purposes of any public institution or any foreign embassy, legation or consulate or any High Commissioner or Trade Commissioner, or as a residence by any officer in the service of the Government or of a foreign embassy, legation or consulate or of a High Commissioner or Trade Commissioner.

44. Penalties.—(1) If any person receives any payment in contravention of the provisions of section 5, he shall be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to an amount exceeding one thousand rupees by the amount of unlawful charges so received by him, or with both.

(2) If any tenant fails to comply with the provisions of clause (c) of sub-section (3) of section 6, or supplies under that clause, a statement which is false in any material particular, he shall be punishable with fine which may extend to one thousand rupees.

(3) If any tenant sub-lets the whole or part of any premises in contravention of the provisions of clause (b) of the proviso to sub-section (1) of section 13, he shall be punishable with the fine which may extend to one hundred rupees.

(4) If any landlord contravenes the provisions of section 41, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(5) If any landlord fails to comply with the provisions of section 42, he shall be punishable with fine which may extend to one thousand rupees.

(6) If any person contravenes the provisions of clause (a) of sub-section (2) of section 43, or fails to comply with a requirement under clause (b) thereof, he shall be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(7) No court shall take cognizance of an offence punishable under sub-section (1) unless the complaint in respect of the offence has been made within three months from the date of the commission of the offence.

(8) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), any magistrate of the first class may pass a sentence of fine exceeding one thousand rupees on a person convicted of an offence punishable under sub-section (1).

45. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of service of notice under this Act;

(b) the procedure to be followed by courts for hearing suits, applications or other legal proceedings and in executing decrees or orders passed by such courts;

(c) the manner in which courts may hold summary inquiry under this Act;

(d) levy of court-fees and other fees for suits, applications and other proceedings under this Act;

(e) the manner in which a Controller may hold inquiry under Chapter IV;

(f) any other matter which has to be, or may be, prescribed.

46. Repeals and savings.—(1) The Delhi and Ajmer-Merwara Rent Control Act, 1947 (XIX of 1947) is hereby repealed.

(2) Notwithstanding such repeal, all suits and other proceedings pending at the commencement of this Act, whether before any court or the Rent Controller appointed under the Fourth Schedule to the said Act, shall be disposed of in accordance with the provisions of the said Act as if the said Act had continued in force and this Act had not been passed :

Provided that the procedure laid down in this Act shall, as far as may be, apply to suits and other proceedings pending before any court.

(3) Part IV of the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944 (Bombay Act VII of 1944) as extended to the Municipality of New Delhi, the Notified Area of the Civil Station Delhi and the Municipality of Delhi by a notification of the Government of India in the late Department of Works, Mines and Power No. 1884-W II/47, dated the 18th March, 1947 shall cease to have effect in the said areas; and for the removal of doubts, it is hereby declared that section 6 of the General Clauses Act, 1897 (X of 1897) shall apply in relation to such cesser as it applies in relation to the repeal of an enactment by a Central Act.

THE FIRST SCHEDULE

[See section 1 (2)]

AREAS TO WHICH THE ACT EXTENDS

A. *The State of Delhi*—

1. The Municipality of Delhi;
2. The Municipality of New Delhi;
3. The Cantonment of Delhi;
4. The Notified Area of the Civil Station, Delhi;
5. The Municipality of Shahdara;
6. The Notified Area, Red Fort;
7. The West Notified Area, Delhi

B. *The State of Ajmer*—

1. The Municipality of Ajmer and all land within one mile of the limits of that Municipality;
2. The Municipality of Beawar and all land within one mile of the limits of that Municipality;
3. The Cantonment of Nasirabad and all land within one mile of the limits of that Cantonment.

THE SECOND SCHEDULE

[See section 2 (i)]

PART A

PROVISIONS FOR DETERMINING THE STANDARD RENT OF PREMISES IN THE STATE OF DELHI

1. In this Part of this Schedule, "basic rent" in relation to any premises means—

(a) where the fair rent of the premises has been determined or redetermined under the provisions of the New Delhi House Rent

Control Order, 1939, the rent as so determined, or, as the case may be, redetermined;

(b) where the standard rent of the premises has been fixed by the court under section 7 of the Delhi Rent Control Ordinance, 1944 (XXV of 1944), the rent as so fixed;

(c) in any other case,—

(i) the rent at which the premises were let on the 1st day of November, 1939, or

(ii) if the premises were not let on that date, the rent at which they were first let at any time after that date but before the 2nd day of June, 1944.

2. Where the premises in respect of which rent is payable were let, for whatever purpose, on or after the 2nd day of June, 1944, the standard rent of the premises shall be—

(a) where the standard rent of the premises has been fixed by the Rent Controller under the provisions of the Fourth Schedule to the Delhi and Ajmer-Merwara Rent Control Act, 1947 (XIX of 1947), such standard rent; or

(b) where the standard rent has been fixed by the court under clause (b) of sub-section (1) of section 8, such standard rent; or

(c) in any other case, so long as the standard rent is not fixed by the court, the rent at which the premises were first let.

3. Where the premises in respect of which rent is payable, not being premises to which paragraph 2 applies, are let for the purpose of being used as a residence or for any of the purposes of a public hospital, an educational institution, a public library or reading-room or an orphanage, the standard rent of the premises shall be the basic rent increased by—

(a) 12½ per cent. thereof, if the basic rent per annum is not more than Rs. 300;

(b) 15½ per cent. thereof, if the basic rent per annum is more than Rs. 300 but not more than Rs. 600;

(c) 18½ per cent. thereof, if the basic rent per annum is more than Rs. 600, but not more than Rs. 1,200; or

(d) 25 per cent. thereof, if the basic rent per annum is more than Rs. 1,200.

4. Where the premises in respect of which rent is payable, not being premises to which paragraph 2 applies, are let for any purpose other than those mentioned in paragraph 3, the standard rent of the premises shall be the basic rent increased by twice the amount by which it would be increased under paragraph 3 if the premises were let for a purpose mentioned in that paragraph.

5. Where the premises in respect of which rent is payable, not being premises to which paragraph 2 applies, are used mainly as a residence and incidentally for business or profession, the standard rent of the premises shall be the mean of the rent as calculated under paragraphs 3 and 4.

PART B

PROVISIONS FOR DETERMINING THE STANDARD RENT OF PREMISES IN THE STATE OF AJMER

1. In this Part of this Schedule, "basic rent" in relation to any premises means—

(a) where the fair rent of the premises has been determined or redetermined under the provisions of the Ajmer House Rent Control

Order, 1948, the rent as so determined or, as the case may be, re-determined;

(b) in any other case,—

(i) the rent at which the premises were let on the 1st day of September, 1939; or

(ii) if the premises were not let on that date, the rent at which they were first let at any time after that date but before the 2nd day of June, 1944.

2. Where the premises in respect of which rent is payable were let, for whatever purpose on or after the 2nd day of June, 1944, the standard rent of the premises shall be—

(a) where the standard rent has been fixed by the court under clause (b) of sub-section (1) of section 8, such standard rent; or

(b) in any other case, so long as the standard rent is not fixed by the court, the rent at which the premises were first let.

3. Where the premises in respect of which rent is payable are let for use as a residence not being premises to which paragraph 2 applies, the standard rent of the premises shall be the basic rent increased by—

(a) $8\frac{1}{2}$ per cent. thereof, if the basic rent per annum is not more than Rs. 800;

(b) $12\frac{1}{2}$ per cent. thereof, if the basic rent per annum is more than Rs. 800 but not more than Rs. 600;

(c) $18\frac{1}{2}$ per cent. thereof, if the basic rent per annum is more than Rs. 600, but not more than Rs. 1,200; or

(d) 25 per cent. thereof, if the basic rent per annum is more than Rs. 1,200.

4. Where the premises in respect of which rent is payable are let for any purpose other than use as a residence, not being premises to which paragraph 2 applies, the standard rent of the premises shall be the basic rent increased by—

(a) 25 per cent. thereof, if the basic rent per annum is not more than Rs. 600;

(b) $37\frac{1}{2}$ per cent. thereof, if the basic rent per annum is more than Rs. 600, but not more than Rs. 1,200; or

(c) 50 per cent. thereof, if the basic rent per annum is more than Rs. 1,200.

5. Where the premises in respect of which rent is payable, not being premises to which paragraph 2 applies, are used mainly as a residence and incidentally for business or profession, the standard rent of the premises shall be the mean of the rent as calculated under paragraphs 3 and 4.

The following Report of the Select Committee on the Bill to regulate certain matters relating to or connected with elections to the offices of President and Vice-President of India, was presented to Parliament on the 15th February, 1952.—

We, the undersigned members of the Select Committee to which the Bill to regulate certain matters relating to, or connected with, elections to the offices of President and Vice-President of India was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. Upon the changes proposed by us which are not formal or consequential we note below.

Clause 2.—We have inserted definitions of “elector” and “Returning Officer” for convenience of reference.

Clause 3.—We are of the opinion that the Returning Officer should be appointed by the Election Commission in consultation with the Central Government and that the Returning Officer should have his office in New Delhi. We have recast sub-clause (1) of this clause accordingly.

Clause 4.—We consider that at a Presidential election the poll should be taken on the same day throughout the States subject to provision being made in the rules for repoll or adjourned poll in a State in any unforeseen contingency. We also consider that the period between the last date for the withdrawal of candidatures and poll should not be less than fifteen days. We have accordingly proposed necessary changes in paragraph (d) of sub-clause (1) of this clause.

Clause 5.—We think that both at the Presidential election and the Vice-Presidential election the nomination paper of a candidate should be subscribed by the candidate himself as assenting to the nomination and by two electors as proposer and seconder, and that this provision should not be left to be prescribed by rules but should be included in the Bill itself. We have accordingly suggested an addition to clause 5 of the Bill.

Clause 6.—We do not consider the proviso to sub-clause (1) of this clause to be necessary and have accordingly omitted it.

Old clause 7.—We think it hardly necessary to provide for the appointment of election agents in the Bill as the principal duty of an election agent is to keep accounts regarding the election and to prepare and sign the return of election expenses and we do not consider it necessary to provide for the return of election expenses in the case of a Presidential or a Vice-Presidential election. We have accordingly omitted clause 7.

Clauses 7 and 8 (old clauses 8 and 9).—We have omitted the references to the Central Government from both these clauses as being unnecessary.

Clause 13 (old clause 14).—We have omitted the definitions of “agent” and “electoral right”, in view of the changes which we have proposed in the remaining provisions of the Bill.

Clause 14 (old clause 15).—We think that an election petition should not be allowed to be presented by a single elector but should be presented either by a candidate at the election or by not less than 10 electors joined together as petitioners. We also think that a period of 30 days from the date of publication of the result of the election should be prescribed in sub-clause (3) of this clause as the period within which an election petition could be presented. We have revised sub-clauses (2) and (3) of this clause accordingly.

Clause 18 (old clause 19).—We consider that the procedure prescribed in this clause should be simplified. We are of the opinion that it will suffice if the grounds for the declaration of an election to be void for corrupt practices are confined to cases where the offences of bribery and undue influence as defined in Chapter IX-A of the

Indian Penal Code are committed, and we do not think it necessary to refer to any other corrupt practices in this clause. We have recast this clause accordingly.

Clause 19 (old clause 20).—We have omitted sub-clause (b) of this clause as we consider that in the case of an election conducted in accordance with the system of proportional representation by means of the single transferable vote it will be difficult to give effect to the provisions of that sub-clause.

Part IV (old clauses 22 and 23).—We consider it quite unnecessary to apply all the provisions relating to corrupt practices and electoral offences mentioned in this Part (except in so far as provisions have been made in the new clause 22) to a Presidential or a Vice-Presidential election. We have accordingly omitted this Part.

Clause 21 (old clause 24).—We have omitted paragraph (g) of sub-clause (2) of this clause in view of the omission of old clause 7.

Clause 22 is new. We have inserted it to make provisions for the maintenance of secrecy of voting on the lines of section 128 of the Representation of the People Act, 1951.

3. The Bill was published in Part II, Section 2 of the Gazette of India, dated the 26th January, 1952.

4. We think that the Bill has not been so altered as to require circulation under rule 77(4) of the Rules of Procedure and Conduct of Business in Parliament, and we recommend that it be passed as now amended.

SYAMA PRASAD MOOKERJEE.
KAILAS NATH KATJU.
TEK CHAND.
K. T. SHAH.
NAZIRUDDIN AHMAD.
GOKULBHAI D. BHATT.
JOACHIM ALVA.
G. DURGABAI.
L. K. BHARATI.
B. PATTABHI SITARAMAYYA.
R. VENKATARAMAN.
AMOLAKH CHAND.
B. DAS.
H. V. KAMATH.

(AS AMENDED BY THE SELECT COMMITTEE.)

(Words sidelined or underlined indicate the amendments suggested by the Committee; asterisks indicate the omissions.)

BILL No. 1 of 1952

A Bill to regulate certain matters relating to or connected with elections to the offices of President and Vice-President of India.

Be it enacted by Parliament as follows:—

PART I

PRELIMINARY

1. Short title.—This Act may be called the Presidential and Vice-Presidential Elections Act, 1952.**2. Definitions.**—In this Act, unless the context otherwise requires,—

(a) “article” means an article of the Constitution;

(b) “election” means a Presidential election or Vice-Presidential election;

(c) “Election Commission” means the Election Commission appointed by the President under article 324;

(d) “elector”, in relation to a Presidential election, means a member of the electoral college referred to in article 54, and in relation to a Vice-Presidential election, means a member of either House of Parliament;

(e) “prescribed” means prescribed by rules made under this Act;

(f) “Presidential election” means an election to fill the office of the President of India;

(g) “Returning Officer” includes an Assistant Returning Officer performing any function which he is authorised to perform under sub-section (2) of section 3;

(h) “Vice-Presidential election” means an election to fill the office of the Vice-President of India.

PART II

CONDUCT OF PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS

3. Returning Officer and his assistants.—(1) For the purposes of each election the Election Commission shall, in consultation with the Central Government, appoint a Returning Officer who shall have his office in New Delhi and may also appoint one or more Assistant Returning Officers.

(2) Subject to rules made under this Act, every Assistant Returning Officer shall be competent to perform all or any of the functions of the Returning Officer.

4. Appointment of dates for nominations, etc.—(1) The Election Commission shall, by notification in the Official Gazette, appoint for every election—

(a) the last date for making nominations which shall be a date not later than the fourteenth day and not earlier than the eighth day after the date of publication of the notification under this sub-section;

(b) a date for the scrutiny of nominations which shall be a date not later than the third day after the last date for making nominations;

(c) the last date for the withdrawal of candidatures which shall be the third day after the date for the scrutiny of nominations;

(d) the date * * on which a poll shall, if necessary, be taken, which * * * shall be a date not earlier than the fifteenth day after the last date for the withdrawal of candidatures.

(2) In the case of the first Presidential and Vice-Presidential elections, the notifications under sub-section (1) shall be issued as soon as may be after both Houses of Parliament have been * constituted.

(3) In the case of an election to fill a vacancy caused by the expiration of the term of office of the President or Vice-President, the notification under sub-section (1) shall be issued on, or as soon as conveniently may be after, the sixtieth day before the expiration of the term of office of the outgoing President or Vice-President, as the case may be, and the dates shall be so appointed under the said sub-section that the election will be completed at such time as will enable the President or the Vice-President thereby elected to enter upon his office on the day following the expiration of the term of office of the outgoing President or Vice-President, as the case may be.

(4) In the case of an election to fill a vacancy in the office of President or Vice-President occurring by reason of his death, resignation or removal or otherwise, the notification under sub-section (1) shall be issued as soon as may be after the occurrence of such vacancy.

5. Nomination of candidates.—(1) Any person may be nominated as a candidate for election to the office of President or Vice-President if he is qualified to be elected to that office under the Constitution.

(2) Each candidate shall be nominated by a nomination paper completed in the prescribed form and subscribed by the candidate himself as assenting to the nomination and by two electors as proposer and seconder.

* * * * *

6. Withdrawal of candidature.—(1) Any candidate may withdraw his candidature by a notice in writing in the prescribed form subscribed by him and delivered before three o'clock in the afternoon on the date fixed under clause (c) of sub-section (1) of section 4, to the Returning Officer either by such candidate in person or by his proposer or seconder who has been authorised in this behalf in writing by such candidate.

* * * * *

(2) No person who has given a notice of withdrawal of his candidature under sub-section (1) shall be allowed to cancel the notice.

(3) The Returning Officer shall, on receiving a notice of withdrawal under sub-section (1), as soon as may be thereafter, cause a

notice of the withdrawal to be affixed in some conspicuous place in his office.

* * * *

7. Death of candidate before poll.—If a candidate who has been duly nominated under this Act dies after the date fixed for the scrutiny of nominations and a report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the Election Commission * * * *, and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election:

Provided that no further nomination shall be necessary in the case of a candidate whose nomination was valid at the time of the countermanding of the poll:

Provided further that no person who has under sub-section (1) of section 6 given a notice of withdrawal of his candidature before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding.

8. Procedure in contested and uncontested elections.—If after the expiry of the period within which candidatures may be withdrawn under sub-section (1) of section 6—

(a) there is only one candidate who has been validly nominated and has not withdrawn his candidature in the manner and within the time specified in that sub-section, the Returning Officer shall forthwith declare such candidate to be duly elected to the office of President or Vice-President, as the case may be;

(b) the number of candidates who have been duly nominated but have not so withdrawn their candidatures exceeds one, the Returning Officer shall forthwith publish in such form and manner as may be prescribed a list containing the names in alphabetical order and addresses of candidates as given in the nomination papers, together with such other particulars as may be prescribed, and a poll shall be taken;

(c) there is no candidate who has been duly nominated and has not so withdrawn his candidature, the Returning Officer shall report the fact to the Election Commission * * * *
* and thereafter all the proceedings in relation to the election shall be commenced afresh and for that purpose the Election Commission shall cancel the notification issued under sub-section (1) of section 4 in respect of such election and issue another notification under that sub-section appointing the dates referred to in that sub-section for the purposes of such fresh election.

9. Manner of voting at elections.—At every election where a poll is taken, votes shall be given by ballot in such manner as may be prescribed, and no votes shall be received by proxy.

10. Counting of votes.—At every election where a poll is taken, votes shall be counted by, or under the supervision of, the Returning Officer, and each candidate and one representative of each candidate

authorised in writing by the candidate, shall have a right to be present at the time of counting.

11. Declaration of results.—When the counting of the votes has been completed, the Returning Officer shall forthwith declare the result of the election in the manner provided by this Act or the rules made thereunder.

12. Report of the result.—As soon as may be after the result of an election has been declared, the Returning Officer shall report the result to the Central Government and the Election Commission, and the Central Government shall cause to be published in the Official Gazette the declaration containing the name of the person elected to the office of President or Vice-President, as the case may be.

PART III

DISPUTES REGARDING ELECTIONS

13. Definitions.—In this Part * * *, unless the context otherwise requires—

* * * *

(a) “candidate” means a person who has been or claims to have been duly nominated as a candidate at an election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;

(b) “costs” means all costs, charges and expenses of, or incidental to, a trial of an election petition;

(c) “returned candidate” means a candidate whose name has been published under section 12 as duly elected.

14. Election petitions.—(1) No election shall be called in question except by an election petition presented to the Supreme Court in accordance with the provisions of this Part and of the rules made by the Supreme Court under article 145.

(2) An election petition calling in question an election may be presented on one or more of the grounds specified in sub-section (1) of section 18 and section 19 to the Supreme Court by any candidate at such election or by ten or more electors joined together as petitioners.

(3) Any such petition may be presented at any time after the date of publication of the declaration containing the name of the returned candidate at the election under section 12 but not later than thirty days from the date of such publication.

15. Form of petitions, etc. and procedure.—Subject to the provisions of this Part, rules made by the Supreme Court under article 145 may regulate the form of election petitions, the manner in which they are to be presented, the persons who are to be made parties thereto, the procedure to be adopted in connection therewith and the circumstances in which petitions are to abate, or may be withdrawn, and in which new petitioners may be substituted, and may require security to be given for costs.

16. Relief that may be claimed by the petitioner.—A petitioner may claim either of the following declarations:—

- (a) that the election of the returned candidate is void;
- (b) that the election of the returned candidate is void and that he himself or any other candidate has been duly elected.

17. Orders of the Supreme Court.—(1) At the conclusion of the trial of the election petition, the Supreme Court shall make an order—

- (a) dismissing the election petition; or
- (b) declaring the election of the returned candidate to be void; or
- (c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected.

(2) At the time of making an order under sub-section (1), the Supreme Court shall also make an order fixing the total amount of costs payable and specifying the persons by and to whom costs shall be paid.

18. Grounds for declaring the election of a returned candidate to be void.—(1) If the Supreme Court is of opinion—

(a) that the offence of bribery or undue influence at the election has been committed by the returned candidate or by any person with the connivance of the returned candidate; or

(b) that the result of the election has been materially affected—

(i) by reason that the offence of bribery or undue influence at the election has been committed by any person who is neither the returned candidate nor a person acting with his connivance, or

(ii) by the improper acceptance or rejection of any nomination, or

(iii) by the improper reception or refusal of a vote, or

(iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act,

the Supreme Court shall declare the election of the returned candidate to be void.

(2) For the purposes of this section, the offences of bribery and undue influence at an election have the same meaning as in Chapter IX-A of the Indian Penal Code (Act XLV of 1860).

19. Grounds for which a candidate other than the returned candidate may be declared to have been elected.—If any person who has lodged an election petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Supreme Court is of opinion that in fact the petitioner or such other candidate received a majority of the valid votes, the Supreme Court shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected.

20. Transmission of orders to the Central Government and its publication.—The Supreme Court shall, after announcing the orders made under section 17, send a copy thereof to the Central Government, and on receipt of such copy the Central Government shall forthwith cause the order to be published in the Official Gazette.

* * * *

PART IV

MISCELLANEOUS

21. Power to make rules.—(1) The Central Government may, after consulting the Election Commission, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the maintenance of a list of members of the electoral college referred to in article 54 with their addresses corrected up to date for the purposes of Presidential elections;

(b) the maintenance of a list of members of both Houses of Parliament with their addresses corrected up to date for the purposes of Vice-Presidential elections;

(c) the powers and duties of a Returning Officer and the performance by any officer appointed to assist the Returning Officer of any function of the Returning Officer;

(d) the form and manner in which nominations may be made and the procedure to be followed in respect of the presentation of nomination papers;

(e) the scrutiny of nominations and, in particular, the manner in which such scrutiny shall be conducted and the conditions and circumstances under which any person may be present or may enter objections thereat;

(f) the publication of a list of valid nominations;

* * * *

(g) the place and hours of polling, the manner in which votes are to be given and the procedure as to voting to be followed at elections;

(h) the scrutiny and counting of votes including cases in which a re-count of the votes may be made before the declaration of the result of the election,

(i) the safe custody of ballot boxes, ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;

(j) any other matter required to be prescribed by this Act.

22. Maintenance of secrecy of voting.—(1) Every officer, clerk or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

23. Jurisdiction of civil courts barred.—Save as provided in Part III, no civil court shall have jurisdiction to question the legality of any action taken or of any decision given by the Returning Officer or by any other person appointed under this Act in connection with an election.

The following Report of the Select Committee on the Bill to provide for the standardisation and marking of goods, was presented to Parliament on the 15th February, 1952:—

We, the undersigned, members of the Select Committee to which the Bill to provide for the standardisation and marking of goods was referred, have considered the Bill, and have now the honour to submit this our report, with the Bill as amended by us annexed thereto.

Upon the changes proposed by us, which are not formal or consequential, we note as follows:—

Clause 2—We think that the definition of “mark” should include “pictorial representation” also and we have accordingly amended clause 2(g).

Apart from the regulations which the Institution may make, we think that the rule-making power should be vested in the Central Government. Clause 2(h) has accordingly been amended.

It may not generally be possible to mark any process with the Standard Mark and we have omitted the words “or process” in clause 2(n).

Clause 3.—We consider that it is not necessary to vest the Institution with powers of search and seizure. We have accordingly omitted the existing part (f) and inserted a new part. We have also made slight drafting changes in parts (b) and (c).

We are of opinion that for the proper development of the export market of India, it is necessary to standardise articles of export and we recommend that such articles should, as far as practicable, be standardised.

Clause 4.—The existing clause provided for the constitution of the Certification Marks Division Council. We do not consider it necessary to provide for such constitution in the Bill.

The setting up of an effective machinery to deal with the question of marking of goods with Standard Mark may be left to the Institution and the rule-making power of the Central Government. We have therefore omitted the existing clause 4 and inserted a new clause to provide for the authentication of orders and instruments issued by the Institution.

Clause 6—The word “Standard” is a common expression found in the names of many firms and companies and we do not consider it proper to prohibit the use of this expression. We have accordingly amended sub-clause (1) and omitted sub-clause (2) as being unnecessary.

Clause 8.—We have made slight drafting changes in sub-clause (1).

In part (b) of sub-clause (2), we have provided that Inspectors may also take samples of any articles and have made slight drafting changes in this part.

Parts (c) to (g) of sub clause (2), vested the Inspectors with what may be called "police powers". They were vested with powers of entry, search and seizure and also with powers to examine any person. We consider that it is not necessary to vest the Inspector with such powers. We have accordingly omitted parts (c) to (g) of this sub-clause.

We have omitted sub-clause (3) as being unnecessary.

In order that inspection may be effectively done, we recommend that experts with technical qualifications should be appointed as Inspectors in suitable cases.

Clause 9.—We think that the Institution should not demand returns and reports from licencees. All that it may require is certain information. We have re-drafted the clause accordingly.

Clause 10.—We are of opinion that power of delegation should not be vested in the Institution. Such power should be vested in the Central Government. We have accordingly amended clause 10.

Clause 11.—Under the existing provisions of the Bill, appeal lay in certain cases to the Institution and in other cases, to the Central Government. We think that in all cases, appeal should lie directly to the Central Government. We have re-drafted the clause accordingly.

Clause 12.—The changes made in this clause are merely consequential.

Clause 13.—We have omitted sub-clause (1) as being unnecessary and made consequential changes in sub-clauses (2) and (3).

We also think that the maximum amount of fine leviable should be increased from five thousand rupees to ten thousand rupees.

Clause 15.—We think that the Government should also be empowered along with the Institution to launch prosecutions. We have amended the clause accordingly.

Clause 17.—We have re-drafted this clause to make the intention clear.

New Clause 19.—The Indian Standards Institution was set up under a Resolution of the Government of India and its constitution is regulated under the Societies Registration Act, 1860. We are of opinion that the Central Government should have powers to amend, if necessary, the constitution and composition of the Institution. We have accordingly inserted this new clause to provide that the Central Government may, if satisfied that public interest so requires, issue general instructions to the Institution and such instructions may include directions to make or amend any bye-law relating to the composition of the Governing Body or other committees of the Institution and its powers and functions. The Institution should not depart from any general instructions issued by the Central Government.

New Clause 20 (original clause 19).—We are of opinion that the rule-making power should lie with the Central Government. We have accordingly amended this clause and have also made certain consequential changes.

New clause 21 (original clause 20).—While the rule-making power in all important matters should lie with the Central Government, we consider that the Institution should be vested with powers to make regulations in respect of matters of details for carrying out the day to day administration. We have accordingly inserted this new clause.

2. The Bill was published in the Gazette of India Extraordinary, Part II, section 2, dated 3rd February, 1951.

8. We think that the Bill has not been so altered as to require circulation under Rule 77(4) of the Rules of Procedure and Conduct of Business in Parliament, and we recommend that it be passed as now amended.

D. P. KARMARKAR
 MONO MOHON DAS
 J. N. HAZARIKA
 *P. K. LAKSHMANAN
 RADHELAL VYAS
 B. P. JHUNJHUNWALA
 R. K. SIDHVA
 SYAMNANDAN SAHAYA
 TEK CHAND
 BRAJA KISHORE PRASAD SINHA
 MAHESWAR NAIK
 *ARUN CHANDRA GUHA

NEW DELHI;
 The 15th February, 1952.

MINUTES OF DISSENT

I

The idea underlying the marking of an article with the Indian Standard Mark as is stated in the statement of Objects and Reasons appended to the Bill is to convey an assurance to the purchaser that the goods or services so marked have been inspected, tested and certified by some agency of competence and that they may be purchased with more than ordinary assurance that certain standards of quality have been met. This imposes a heavy responsibility on the Indian Standards Institution to see that no spurious article bearing the certification mark get into the market. This responsibility cannot adequately be discharged unless the Institution is vested with powers of search and seizure as is sought to be done under part (f) of clause 3 and parts (c) to (g) of clause 8. I am firmly of the opinion that the deletion of these powers will have the effect of defeating the very purpose of the measure. Subject to these observations I agree with the report.

P. K. LAKSHMANAN.

NEW DELHI;
 The 15th February, 1952.

II

The language used in clause 10 of the Bill seems to me vague and ambiguous. I think it has not been the intention of the Select Committee to restrict the selection of competent authority only to persons or organisations belonging to or connected with any industry. At least my purpose was to make the scope much wider so as to include independent experts such as professors, engineers, technicians and independent scientific academicians and institutions. I hope the language would be made clear on this point.

ARUN CHANDRA GUHA.

NEW DELHI;
 The 15th February, 1952.

*Subject to a Minute of Dissent.

(AS AMENDED BY THE SELECT COMMITTEE)

(Words *sidelined* or *underlined* indicate the amendments suggested by the Committee; asterisks indicate the omissions.)

BILL No. 2 OF 1951

A Bill to provide for the standardisation and marking of goods.

BE it enacted by Parliament as follows:—

1. Short title and extent.—(1) This Act may be called the Indian Standards Institution (Certification Marks) Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “article” means (as respects standardisation and marking) any substance, artificial or natural, or partly artificial or partly natural, whether raw or partly or wholly processed or manufactured;

(b) “covering” includes any stopper, cask, bottle, vessel, box, crate, cover, capsule, case, frame, wrapper or other container;

(c) “Indian Standard” means the standard (including any tentative or provisional standard) established and published by the Indian Standards Institution, in relation to any article or process, indicative of the quality and specification of such article or process;

(d) “Inspector” means an Inspector appointed under section 8;

(e) “Institution” means the Indian Standards Institution set up under the Resolution of the Government of India in the late Department of Industries and Supplies No. 1 Std. (4)/45, dated the 8rd day of September, 1948, and registered under the Societies Registration Act, 1860 (XXI of 1860);

(f) “licence” means a licence granted under this Act to use the Indian Standards Institution Certification Mark, in relation to any article or process which conforms to the Indian Standard;

(g) “mark” includes a device, brand, heading, label, ticket, pictorial representation, name, signature, word, letter or numeral or any combination thereof;

(h) “prescribed” means prescribed by rules or regulations made under this Act;

(i) “process” includes any practice, treatment and mode of manufacture of any article;

(j) “registering authority” means any authority competent under any law for the time being in force to register any company, firm or other body of persons, or any trade mark or design, or to grant a patent;

(k) “specification” means a description of an article or process as far as practicable by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age, material, mode of manufacture or other characteristics to distinguish it from any other article or process;

(l) "Standard Mark" means the Indian Standards Institution Certification Mark specified by the Indian Standards Institution to represent a particular Indian Standard;

(m) "trade mark" means a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right, either as proprietor or as registered user, to use the mark, whether with or without any indication of the identity of that person;

(n) an article * * * is said to be marked with a Standard Mark if the article * * * itself is marked with a Standard Mark or any covering containing, or label attached to, such article is so marked.

3. Powers and duties of the Institution.—The Institution may exercise such powers and perform such duties as may be assigned to it by or under this Act, and, in particular, such powers include power to—

(a) establish and publish, in such manner as may be prescribed, the Indian Standard in relation to any article or process;

(b) specify a Standard Mark to be called the Indian Standards Institution Certification Mark, which shall be of such design and contain such particulars as may be prescribed to represent a particular Indian Standard;

(c) grant, renew, suspend or cancel, in such manner as may be prescribed, a licence for the use of the Standard Mark,

(d) levy such fees for the grant or renewal of any licence as may be prescribed;

(e) make such inspection and take such samples of any material or substance as may be necessary to see whether any article or process in relation to which the Standard Mark has been used conforms to the Indian Standard or whether the Standard Mark has been improperly used in relation to any article or process with or without licence;

(f) do such other acts as may be prescribed.

4. Authentication of orders and other instruments of the Institution.—All orders and decisions of, and all other instruments issued by, the Institution shall be authenticated by the signature of such officer or officers as may be authorised by the Institution in this behalf.

5. Prohibition of improper use of Standard Mark.—(1) No person shall use in relation to any article or process, or in the title of any patent, or in any trade mark or design the Standard Mark or any colourable imitation thereof, except under a licence granted under this Act.

(2) No person shall, notwithstanding that he has been granted a licence, use in relation to any article or process the Standard Mark or any colourable imitation thereof unless such article or process conforms to the Indian Standard.

6. Prohibition of use of certain names, etc.—* * * No person shall, except in such cases and under such conditions as may be prescribed, use without the previous permission of the Institution,—

(a) any name which so nearly resembles the name of the Indian Standards Institution as to deceive or likely to deceive the public or which

contains the expression * * "Indian Standard" or any * *
 abbreviation thereof; or

(b) any mark or trade mark in relation to any article or process
 containing the expressions * * "Indian Standard" or "Indian
 Standard specification" or any * * abbreviation of such expressions.

* * * * *

7. Prohibition of registration in certain cases.—(1) Notwithstanding anything
 contained in any law for the time being in force, no registering authority shall—

(a) register any company, firm or other body of persons which bears
 any name, or

(b) register a trade mark or design which bears any name or mark, or

(c) grant a patent, in respect of an invention, which bears a title
 containing any name or mark,

if the use of such name or mark is in contravention of section 5 or section 6.

(2) If any question arises before a registering authority whether the use of
 any name or mark is in contravention of section 5 or section 6, the registering
 authority may refer the question to the Central Government, whose decision
 thereon shall be final.

8. Inspectors.—(1) The Institution may appoint as many Inspectors as may
 be necessary for the purpose of inspecting whether any article or process
in relation to which the Standard Mark has been used conforms to the Indian
Standard or whether the Standard Mark has been improperly used in relation
to any article or process with or without licence, and for the purpose of
performing such other functions as may be assigned to them.

(2) Subject to any rules made under this Act, an Inspector shall have
 power to—

(a) inspect any operation carried on in connection with any article or
process in relation to which the Standard Mark has been used;

(b) take samples of any article, or of any material or substance used
in any article or process, in relation to which the Standard Mark has been
used ;

* * * * *

(c) exercise such other powers as may be prescribed.

(3) Every Inspector shall be furnished by the Institution with a certificate
 of appointment as an Inspector, and the certificate shall, on demand, be
 produced by the Inspector.

9. Power to obtain information, etc.—Every licensee shall supply the
 Institution with such information, and with such samples of any material or
 substance used in relation to any article or process, as the Institution may
 require.

10. Power to authorise the competent authority.—(1) The Central Govern-
 ment may, in consultation with the Institution, by notification in the Official
 Gazette, direct that any power exercisable by the Institution by or under this
 Act shall, in relation to such matters and subject to such conditions as may
 be specified in the direction, be exercisable also by such authority or such

organisation of any industry as may be specified in the notification (hereinafter referred to as the 'competent authority').

(2) For avoidance of doubts, it is hereby declared that the Central Government may, by a like notification, withdraw the powers delegated to a competent authority under sub-section (1).

11. Appeals.—(1) Any person aggrieved by an order passed under clause (c) of section 8, whether by the Institution or by a competent authority, may prefer an appeal to the Central Government.

(2) The appeal shall be presented in such form and manner and within such time as may be prescribed.

(3) The Central Government shall, in dealing with appeals under this section, follow such procedure as may be prescribed.

12. Certain matters to be kept confidential.—Any information obtained by an Inspector, competent authority, or the Institution from any statement made or information supplied or in any evidence given or from inspection made under the provisions of this Act shall be treated as confidential:

Provided that nothing in this section shall apply to the disclosure of any information for the purpose of prosecution under this Act.

*** 13. Penalty for improper use of Standard Marks, etc.**—(1) Any person * * * who contravenes the provisions of section 5 or section 6 shall be punishable with fine which may extend to ten thousand rupees.

(2) Any court trying a contravention under sub-section (1) * * * may direct that any property in respect of which the contravention has taken place shall be forfeited to the Government.

14. Penalty for other offences.—Whoever contravenes any of the provisions of this Act or of any rules made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one thousand rupees.

15. Cognizance of offences by courts.—(1) No court shall take cognizance of any offence punishable under this Act, save on complaint made by or under the authority of the Government or the Institution or by an officer empowered in this behalf by the Government or the Institution.

(2) No court inferior to that of a presidency magistrate or a magistrate of the first class specially empowered in this behalf shall try any offence punishable under this Act.

16. Protection of action taken under this Act.—No suit, prosecution or other legal proceeding shall lie against the Central Government or the Institution or any person acting under the authority of the Central Government or the Institution for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder.

17. Act not to affect the operation of certain Acts.—Nothing in this Act shall affect the operation of the Agricultural Produce (Grading and Marking) Act, 1937 (I of 1937) or the Drugs Act, 1940 (XXIII of 1940).

18. Savings.—Nothing in this Act shall exempt any person from any suit or other proceeding which might, apart from this Act, be brought against him.

19. Directions by the Central Government.—(1) The Central Government may, if satisfied that the public interest so requires, by order in writing for reasons to be stated therein, give to the Institution general instructions to be followed by the Institution and such instructions may, notwithstanding anything contained in the Societies Registration Act, 1860 (XXI of 1860), include directions to make or amend any bye-law relating to the composition of the Governing Body or other Committees of the Institution and its powers and functions in such form and within such period as may be specified in the order.

(2) In the exercise of its powers and performance of its duties, the Institution shall not depart from any general instructions issued under sub-section (1).

Explanation.—In this section, the expression ‘bye-law’ includes all rules, or regulations (by whatever name called) which the Institution is competent to make in the exercise of the powers conferred on it under the Societies Registration Act, 1860.

20. Power to make rules.—(1) The Central Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the procedure and manner in which the Indian Standard, in relation to any article or process, may be established and published;

(b) the design of the Standard Mark in relation to each Indian Standard and the particulars which a Standard Mark may contain;

(c) authorisation of competent authority under section 10;

(d) the manner in which, and the conditions subject to which, a licence to use the Standard Mark may be granted, renewed, suspended or cancelled;

(e) the levy of fees for the grant or renewal of any licence;

(f) the mode of inspection by the Institution and the manner in which samples may be taken by it;

* * * * *

(g) the * * powers and functions of the Institution;

(h) the cases in which, and the circumstances under which, exemption may be granted from the prohibition contained in section 6;

(i) the powers of Inspectors;

(j) the form and manner in which and the time within which appeals may be preferred; the procedure to be followed in hearing appeals;

(k) the forms to be used under this Act;

(l) any other matter which has to be, or may be, prescribed under this Act.

(3) In making any rule under this section, the Central Government may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

21. Power to make regulations.—(1) The Institution may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder, to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the matters specified in clauses (a), (b) and (f) of sub-section (2) of section 20.

M. N. KAUL,
Secretary.